

THE HISTORY AND MEANING  
OF THE TERM  
SOCIAL JUSTICE

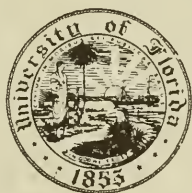
by

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# **The History and Meaning of the Term Social Justice**

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A Dissertation

Submitted to the Committee on Graduate Study  
of the University of Notre Dame  
in Partial Fulfillment of the Requirements for  
the Degree of  
Doctor of Philosophy

by

LEO W. SHIELDS, A. B.

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*Dedicated*  
*To My Parents*

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## PREFACE

The purpose of this study is not to enumerate all the things that social justice has ever meant, but to see whether among the multitude of usages there is some meaning of the term sufficiently common to justify the use of it in a precise sense. I wish to express my gratitude to Father F. J. Boland for suggesting the subject and for his encouragement; to Dr. F. A. Hermens for his patient direction and assistance; and to the other members of the faculty of the University of Notre Dame, among whom Dr. Waldemar Gurian, Dr. Yves Simon and Mr. Matthew A. Fitzsimons have been especially generous. Sister Mary Ignatius, S. N. D., and Mr. F. P. Kenkel, editor of **Social Justice Review**, furnished helpful advice by correspondence. I am also specially and permanently indebted to Dr. M. J. Adler of the University of Chicago, to whom I owe my interest in Thomism and especially in its application to the critical problems of the times.

May, 1941.





## CHAPTER I.

### INTRODUCTION

Social justice is a new term. It first appeared in the middle of the nineteenth century, achieved its widest intellectual popularity in the post-war decade, and has already begun to disappear from all but Catholic usage. Catholic writers, encouraged by the approval given the term by the recent Popes who have used it with an apparently precise reference in their encyclicals, still make use of it in popular writings, and some of them, believing that the new term signifies a new concept which genuinely advances political thought, have woven it very carefully into their social doctrines.

Whether social justice is a new concept or a new name for an old one, it was at least new to contemporary thought at the time of its appearance. The complete revolution in political ideology of which the French Revolution was the most evident sign consisted chiefly in individualizing people's social outlook. The characteristic feature of the political thought of the period was its emphasis either on individual rights or on individual freedom of action against the arbitrary state. The common good disappeared and its place was taken by such constructions as the utilitarian "greatest good of the greatest number". Belief in responsibility to the social group nearly disappeared. The harmful effects of this anarchism appeared first in the economic sphere, where individual freedom had not required throwing off any old yoke but only not submitting to any new ones. It was not long until desperate conditions of poverty and inequality had brought forth criticism in the name of justice. But the only kind of justice known in the new economic system was payment of debts as required by law. Harmful social effects of a producer's wage policy were thought to be unfortunate but inevitable, surely none of his business. The idea of justice was destined under these conditions for a very considerable elaboration. From Marx, who rejected the sanction of the principles of justice for his strenuous ethical condemnation of the capitalist order, to Leo XIII who based his whole social doctrine on the certain teachings of the natural law and of Christian revelation, all the important political writers of the period struck at the real injustices of their system.

While some thinkers were reducing the entire problem to one of hard-heartedness or of injustice in exchange, others sought in the duties of the individual to his society a source of the obligation of the capitalist toward the impoverished proletariat. It was

out of the latter trend that the current concept of social justice developed.

Who it was that first combined the words social and justice and how they were first used is not known. Social justice probably did not appear as a term with any special meaning until about 1850. After the appearance of Leo XIII's encyclical **Rerum Novarum** it came into quite common use among Catholic writers. By the turn of the century moral theologians had given it recognition and most of them were agreed that it named the long-ignored social virtue, legal justice. At the same time writers outside Leo's intellectual tradition were beginning to use it, often apparently without knowledge of the Catholic literature. It was popularized by Catholics in France, Germany and the United States, and between 1910 and 1930 hundreds of books and pamphlets talked about it in popular and vague terms. The Protestants and the Jews took it up as a slogan for social reform, scholarly books were written about the progress of social justice, and the term found its way into such documents of state as the Versailles Treaty. The events of the last decade have caused its popularity to wane; men of science have squeamishly abandoned it to the demagogues, while its appropriation by political factions has restricted its applicability as a mass symbol. Nevertheless it is still an important concept in Catholic social thought. The encyclicals of Pius XI used it repeatedly in a more and more precise sense, clerical and lay Catholic leaders in the social movement have publicized social justice at great length; in 1937 the term appeared in its precise meaning in the new Irish Constitution.<sup>1</sup>

Naturally this term, like all terms in the moral sciences, has taken on a variety of meanings, often vague and ill-defined. But there is a common core of notions about which all the meanings cluster, which unifies them and makes it possible to regard social justice as a single term, not only in the literature of modern Thomism but in the whole political literature of our period. It is used to mean simply a certain equality in society; the equality of justice, by which everyone in society gets his due from everyone else. This basic notion has been further determined and often distorted by concrete applications. Some have seen in social justice equality of opportunity, some equality of security, some equality before the law, some equal participation in the good life of the community. Some have understood it to mean the complete

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1. Article 43.

equality of wealth that communism is vulgarly supposed to offer, some the kind of equality described in the socialist formula, "From each according to his ability, to each according to his needs." The precise meaning for Thomism will be developed later. But the fundamental notion is of an order of complete justice in society, and this fundamental notion, far from being new, is among the oldest in political science. Plato first systematically elaborated it in his **Republic**: justice as the principle of order and unity in society, the principle of that justice being "one man, one task" — the orderly performance of each function by the man naturally best fitted for that function; this is rendering to each his due by rendering to the community its due.

The purpose of this study is to discover the origin and history of the term, in order to see whether it has had a consistent meaning and what its meanings have been. The first part will present an analysis of the real scientific problems involved in the notion of social justice, on the basis of which the second part will set forth historically and criticize the meanings which the term has taken. The conclusion will be an estimate of the value of social justice—the term, the idea, and the thing.

Because Catholic writers have given most attention to social justice, and have used the term most formally and precisely, their doctrines and interpretations must be emphasized. And because of the intellectual dependence of Catholic writers on the pronouncements of the visible Head of the Church, a very special consideration must be given to the use of the term in papal documents. It has seemed to many that the exposition of the doctrines of social justice is the essence of modern Catholic teaching on the social problem. It is needless to urge with other reasons the importance of the question at hand.

## CHAPTER II.

## THE NATURE OF JUSTICE

The most important notion involved in the concept of social justice is of course justice. Social justice, unless its significance is only metaphorical, must be a kind of justice, therefore we must know what justice is.

Fortunately Aristotle, on account of the Greek preoccupation with the political virtues, gave quite thorough treatment to the virtue of justice, and consequently we have much explicit discussion of it in the works of St. Thomas. The analysis which follows is derived from, and it is hoped conforms to, the Thomistic doctrine of Justice.<sup>1</sup>

## A. THE KINDS OF JUSTICE

The virtue of justice is that virtue which brings about the just state of things called "objective justice". The object of any virtue is the end toward which it is directed. The object of the virtue of justice, and the end of the just act, is this just state of things, which we may call "the just" (*jus*), or right.<sup>2</sup> "The just" is a certain natural equality. The nature of anything may be considered in two ways: as the organizing principle of the thing according to which it is what it is and acts as it does; or as the end toward which it is intrinsically directed. Nature in the first aspect, as a formal principle, is what makes a thing act in a certain way; nature in the second aspect, as a final principle, is what it tends toward in its action. It is nature in this last sense, what is tended toward, that we call **good**; the good is the end of a natural tendency. When this tendency is toward some agreement or union between two things, that agreement or union is called just.<sup>3</sup> For example the procreative union of the sexes is just in the most fundamental sense; male and female are meant for each other, there is a natural tendency to the union or adequation of one with the other, and this natural adequation we call **just**.

There are different kinds of "just" (a) in accordance with the different ways in which the adequation is natural and (b) in accordance with the different modes of adequation. As for the different ways in which an adequation or agreement can be natural,

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1. Unless otherwise noted, footnote references in this chapter are to the works of St. Thomas and in particular to the **Summa Theologica**.
  2. 2-2, 57, 1c.
  3. 2-2, 57, 3c.

one example has already been given. The union of the sexes is natural in the most unequivocal way; it is demanded by the very nature of the things equated. The adequation that is natural in this direct way is called "the natural just" (*jus naturale*).<sup>4</sup> An adequation can be required also, not by the very nature of the things equated, but by something consequent to their natures. For instance there is nothing in the nature of a piece of land which requires that a particular man should own it, but in consequence of natural attributes of both—the powers of the soil, the talents of the man, the location of the land—it is useful for him to be its owner; and what is useful is natural, because a thing tends toward what is useful as a means to its end. An adequation required in this way is called *jus gentium*.<sup>5</sup> Finally an adequation can be required by something which is neither the nature of the things equated, nor consequent to their nature, but accidental to it. For instance it is natural to a criminal that he should be punished, but whether by a prison sentence of five or ten years is a matter that has no natural connection with his crime. Nevertheless the good of society requires that a particular sentence be fixed, and this determination is a matter of convention, governed only by prudence. This kind of adequation, for instance of a particular sentence to a particular crime, is called *jus positivum*.<sup>6</sup> It is natural indirectly, by being agreed upon for the sake of the common good, to which it is a mere means. As the common good is natural, any suitable means to it is natural also.

Now since the common good of society is the ultimate natural end of human life, it is the ultimate end of any act of justice; not only of acts directed toward *jus positivum*, but of those directed toward *jus gentium* and *jus naturale*. Generation and the possession of private property, for example, both have an order to the common good; unless that order is preserved those adequations will cease to be just, because they will cease to be natural. This is why it is true to say that the principle of the just is law;<sup>7</sup> for law is a reasonable ordinance toward the common good.<sup>8</sup> Any adequation ordained by law, be it the eternal law, the natural law, or human law, is just, and it is just by virtue of that ordination.

So much for the division of the just in accordance with its naturalness. We have said that the just is the object of justice,

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4. 2-2, 57, 2c.; 3c.

5. 2-2, 57, 3c.

6. 2-2, 57, 2c., ad 2; cf. 3e.

7. 2-2, 57, 1 ad 2.

8. 1-2, 90, 4c.



and a virtue is differentiated by its formal object. But this first division of the object of justice does not differentiate justice, because it does not constitute a formal difference in the object. A just act has the same formality, bears the same relation to reason, whatever the origin of the right (*jus*) which it regards. For instance an employer is equally obliged to pay a just minimum wage whether it is determined by agreement or by *jus gentium*. The difference in the causes of the *jus* are material with respect to the virtue.

The second distinction of *jus* has to do with the various kinds of adequation. Adequation implies a diversity of things equalized, an otherness. Accordingly two kinds of difference are possible: (a) division according to the mode of otherness; (b) division according to the mode of equality.

In order to make clear what kind of otherness is required for justice, let us see why it is that there can be no justice toward the subrational creation. Subrational things are the objects of human actions: for instance when we pick up a stone or swat a fly. Can they be the objects of justice?

An adequation of anything is just, we have said, if it is required by the natural end of that thing. A just action toward a man would have to be required by the end of that man; toward an animal, by the end of that animal. Now the end of all things is the universal good, and man alone of all physical things is capable of attaining that good directly, since it can only be apprehended by an intellectual power. Thus the proper end of man, the virtuous human life of contemplation, is his ultimate end in the natural order; by natural contemplation of God he attains the universal good. But all lower things are incapable of attaining that good by the attainment of their proper ends; they can participate in it only as instruments, as means to the good human life. This is why the ultimate natural end of the subrational creation is the human common good.<sup>9</sup>

Consequently the end of an animal for instance is the end of society, either directly or through its members. If I kill a cow injustice is done not to the cow but to her owner; if I kill a deer out of season it is society which suffers an injustice. If I kill my own chicken for dinner no injustice is done at all, because harm to the chicken is required by its end, my own comfort. Subrational creatures cannot be the object of justice; they can only be the matter of the justice.

Thus it is to be noted that there are three things involved in

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9. 1, 96, 2c. Cf. *Summa Contra Gentiles*, III, 81.

a just action: the subject, the object, and the matter. The object is a natural adequation of some **person**, because nothing less than a person has properly an ultimate end. The subject is the person who brings that adequation about. The matter is the operation by which the adjustment is made and the things used for the adjustment.<sup>10</sup>

It can therefore be said that the otherness required for justice is an otherness of end. A subrational creature cannot be other in this sense; it is either of **another** or of the subject of justice.

As for the division of justice according to the two principles named above, otherness and equality, it can most easily be made by beginning with the kind of justice in which the two principles are formally most perfectly realized. This is commutative justice, which is between individual private men and for which the mean is a numerical equality.<sup>11</sup> For private individuals, members of the state, are simply speaking not parts of one another in any sense. Their ends are separate. They are alike parts of the social whole, but with reference to each other they are simply other. And the equal which is rendered in this mode of justice is the simplest and most perfect kind of equal, numerically equal with what it is equated to.

Since men live in a society which their nature demands, there is another term of justice than other individuals, namely the social whole. And this whole, socially organized, is capable of acting on its parts, individual men. The justice which is between the members of society as parts of that society and the society as a whole evidently differs in respect of both the principles of justice from commutative justice. First of all, part and whole are not simply other. The part is of the whole, the whole is composed of its parts. The action of the whole toward its parts is of a directive and controlling kind, because the whole is the cause of their unity and the end of their activity. Thus just as in a natural organism the soul behaves toward the parts of the body in a quasi-paternal way, by distributing to each part what is proper and useful in order to enable it to perform its functions or to reward it for proper functioning, and by commanding and directing its operations; so the social whole, in giving its members what is due them as parts, is regulated by distributive justice, which apportions common goods and duties among the citizens in accordance with their deserving-

10. 2-2, 58, 8c.

11. 2-2, 61, 2c.

ness in terms of ability or accomplishment in behalf of the common good.<sup>12</sup>

Clearly, too, this mode of justice falls short of the perfect notion of equality. For numerical equality is impossible when the deservingness and the repayment cannot be reduced to a common measure. Now the state owes to each citizen a certain share of its well-being—not strictly but metaphorically, since this is a kind of debt to itself. But what it distributes cannot be that well-being, which the citizen already enjoys in his measure insofar as he is a member of the state; it is a common possession of benefits and duties which is distributed as a kind of reward. The only kind of equality that can be attained is one of proportion, “geometrical proportionality” in Aristotle’s terminology:<sup>13</sup> each citizen receives in proportion to his deserts, though he cannot receive the very amount of his deserts.

Of another kind is the action of the parts toward the whole. The otherness of the whole as regarded by the part is in its being an end, not wholly extrinsic but higher than the part. From this unique mode of otherness of the whole—still farther remote from simple otherness, because the part is completely ordered to the whole in its entirety, so that the highest good of the part and the whole in the natural order are identical—follows another mode of justice, that which regulates the behavior of the member of society toward the social whole.<sup>14</sup> What is due according to this mode of justice is everything, every operation whatsoever in its perfection: because the whole is the end of the part, the part is completely ordered to the whole. The object of this justice is the common good, which all virtuous actions help and all vicious actions harm. This kind of justice is called legal justice in the Aristotelian tradition, from its principle, the law, which ordains actions toward the common good.<sup>15</sup> The kind of equality that is rendered by legal justice is only analogically equality. It is simply a correspondence between the good as an end and the good as an achievement, between the good act to be done and the good act done. For the common good consists of the most complete goodness of the citizens. Every good act by a member of society is a real part of the common good. Thus the obligation or debt to promote the common good is discharged, according to the measure of the act done, by every good act.

12. 2-2, 61, 2c.

13. Aristotle, *Ethics* V, 6, 1131b.

14. 2-2, 58, 5c.

15. 2-2, 58, 5c.



Legal justice is in fact very similar formally to the private virtue of a good man, by which the parts of his soul are ordered with respect to one another and to the whole according to reason. Indeed the mode of equality is the same. The virtuous man commensurates or equalizes his actions with what is required by his nature, that is with his nature regarded as an end, just as the legally just man equalizes his actions with what is required by the common good, that is with society, which is the perfection of human nature, regarded as an end. But in the case of the virtuous man there is no real otherness at all. For the otherness required for justice is an otherness of agent and patient of the work of justice. And actions properly inhere in substances, *supposita*; so that the same substance cannot have one part doing and another suffering an action, since for instance if the hand strikes the face, it is properly the man who strikes with his hand and is struck in his face.<sup>16</sup> Consequently it is only by metaphor that we may speak of a justice which consists of an equitable arrangement of the parts of the soul; St. Thomas calls this metaphorical justice.<sup>17</sup>

One might object that if only between *supposita* there is the otherness necessary for the works of justice, there cannot be a justice properly speaking which has for either term the society or common good, which is no substance. But the metaphysician can answer that while society is not a substance, it is somehow better than substances, not simply but in a certain respect; it has a higher being than the human substances which are the matter it informs, just as any form is better than its matter; consequently it somehow possesses virtually all the powers natural to men, among them being the power to act and suffer. And this is evident too for common sense; the state can act through its governors and suffer through its members.

These three kinds of justice: general justice, or legal justice, and commutative and distributive justice; are the only ones among the virtues regulating external operations which satisfy in some adequate degree the essential requirements of justice, otherness and equality. One other kind barely fails to meet these requirements, domestic justice with its species. This is the mode of justice which regulates actions between members of the household community. It is justice, because between persons who are separate *supposita*; it is not simply justice, because insofar as what is

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16. 2-2, 58, 2c.

17. 2-2, 58, 2c.

naturally due between father and son, husband and wife, is due in virtue of these familial relationships, the terms of the just operation are not other but part one of the other. The son is part of the father, the husband and wife are one flesh.<sup>18</sup>

There are other virtues about external operations which fall short of strict justice. Religion regulates our relations with God; not justice, because here there is a complete defect in equality. Man cannot render God His due, but he is obliged to render Him as much as he can. Even among men there are many to whom we become indebted in such a way that payment according to strict justice is impossible because of a lack of equality between what is received and what could be paid. For instance, to our parents we owe life itself; we cannot repay them equally, since we cannot give them life, but we can make ourselves responsible for the means of preservation of their lives; and to this we are bound by the virtue of piety. Also, those who perform any virtuous act do us a service which cannot be repaid equally, because virtue is an imperishable good, communicative and diffusive of itself, and unaccompanied by any loss. The only repayment which can be made is to honor the virtuous man in an appropriate way, and the virtue of observance regulates this honor. These three virtues fall short of the requirements of justice in regard to equality; by none of them can the equal be rendered.<sup>19</sup>

Furthermore there are virtues that differ from justice in regard to **otherness** in such a profound way that the kind of debt is radically altered. For the otherness of strict justice is a substantial otherness between subject and object, the object being the term of the operation which is the matter of justice. In this case what is due is really due to the other person. But many operations toward others are required not because of a debt to the other person, but by right morality. What is adequated is an achievement of the subject with his nature considered finally. Here the only substantial otherness is between the subject and the person who is the term of the operation; but subject and object are identified. As far as the subject is concerned, the adequation is no different than in metaphorical justice.

St. Thomas calls the first of these two kinds of debt, legal debt, and the second, moral debt.<sup>20</sup> Why this terminology is used it is difficult to determine, since the moral debt, that which is due on account of "the honesty of virtue", is also due by law insofar as

18. 2-2, 57, 40; 58, 7 ad 3.

19. 2-2, 80, o.

20. 2-2, 80, o.

every virtuous act is commanded by law. But human law is primarily concerned with the preservation of strict justice, without which especially the state cannot be preserved. Furthermore justice is less mediately ordered to the common good than the other virtues, because its direct object is the good of another rather than the private good of the subject. These reasons give some justification for the use of a term which is perhaps not intended to be strictly accurate.

The virtues by which something is rendered to another which is due not to him but morally to the subject are divided into two classes according as they are necessary to the integrity of virtue or merely increase it.<sup>21</sup>

## B. LEGAL JUSTICE

### AND ITS RELATION TO THE OTHER VIRTUES<sup>22</sup>

Before discussing the nature of social justice, it will be well to explain more completely the relation between the three species of justice properly speaking. Of these three species one has a quite unique character on account of its object. Let us recapitulate the nature of these three kinds of justice. Commutative justice regulates actions between private men: the subject is a private person, or a person or representative of a group considered in its private character, and the object is another such private person or group representative. Distributive justice regulates actions between the social whole and the citizens and groups which are its parts: as it exists principally, the subject is a person or the representative of a body which "has charge of the multitude", considered in his public character, and the object is a private person or the representative of a group considered in its private character; as it exists participatively, these positions are reversed—the subject is a private person properly disposed toward the distribution made by the ruler who has the virtue principally. Legal justice regulates actions toward the social whole by its parts: its subject is a person whether in public or private capacity, and its object is the common good. It is found architectonically in the ruler of the society as the virtue which is materially or instrumentally proper to him as a ruler (in distinction from regnative prudence, which is formally his proper virtue<sup>23</sup>—by prudence he selects the means for the at-

21. See *infra*, 20, Note 32.

22. The best exposition of the Thomistic doctrine of legal justice is P. Hyacinthus—M. Hering, "De Genuina notione iustitiae legalis juxta S. Thomam", *Angelicum*, 14 (1937), 464-487.

23. 2-2, 50, 1c.

tainment of the common good which is the object of legal justice; thus prudence is a certain principle directing legal justice), and executively or administratively in the subjects.<sup>24</sup>

But all virtues are capable of serving the common good, for under certain circumstances the act of every virtue can be ordered to the common good,<sup>25</sup> either immediately, as when a man is brave in warfare directly for the sake of the common good, or mediately, as when he is brave in games for the sake of giving good example. Further, the common good really consists of the virtuous life of the members of the state; thus every vice in a citizen injures it and every virtue helps it. In fact every moral act is indirectly ordinable to the common good, insofar as it strengthens or weakens the habit of virtue. Consequently legal justice is a general virtue which commands all the other virtues and orders them to the common good. General with regard to its effects, it is special with regard to its essence, since it has a special object.<sup>26</sup> As a special virtue, is it one of those virtually contained in itself as a general virtue; or in other words, does it have, as a special virtue, any special acts which are not the acts of the other virtues? The answer must be negative. It is all virtues, properly ordered to the virtuous life, which comprise the common good; general justice has only to command and order them; its proper acts are the acts of these virtues informed by a higher end. The common good is not an object which can be directly attained, simply because it consists of the virtuous life of the citizens.

But there are some acts which many have regarded to be acts of legal justice directly, and for the sake of clarity it is necessary to show to what subalternate virtues the most doubtful of these can be reduced. The most confusing cases are the acts of citizens which are commanded by distributive justice. Consequently it is useful to make a rather detailed comparison of these two virtues.

Distributive justice is found principally in the distributor and as it were instrumentally in the objects of the distribution, the individuals to whom the common goods are distributed. In this respect it differs from commutative justice. Both parties to an exchange can have the virtue of justice principally, since each must give as much as he receives. In an exchange each party equalizes the thing he gives with the thing he receives, thus equalizing the condition of the other with what is his right, viz: what was his

24. 2-2, 58, 6c.

25. 2-2, 58, 5c.

26. 2-2, 58, 6c.

condition before the exchange. What justice effects is an equality of persons through an equality of things; and in commutative justice each person as subject of justice equalizes the other as its object. But in distributive justice the relation is quite different. The person who makes the distribution is not one of the persons whose conditions are equalized. The persons who are made equal—not quantitatively but in proportion—are the persons who receive the distributed goods; the distributor is not affected, except accidentally if he happens to be one of those among whom the common goods are distributed. Does it follow then that only the distributor has the virtue of distributive justice? Not without qualification. The distributor has it principally, because it is he who is the cause or principle of the just distribution.<sup>27</sup> But a just distributor is not enough for a just distribution. A farmer feeding his chickens has not made an equal distribution when he sets out for each fowl the proper amount of meal; he has to contrive that the food will not be wasted or monopolized by the biggest birds. Now when the objects of the distribution are men, they can either help or hinder the realization of the distribution by conscious intention. They can be instruments of the distributor in effecting his distribution, and then they will have the virtue of distributive justice instrumentally or participatively,<sup>28</sup> just as a man who asks the advice of someone more prudent than himself and follows it because he sees its wisdom has the prudence of the more prudent man by participation.

The virtue of distributive justice in the receivers of the distribution is a habit of being contented with a just distribution, and its act is compliance with the requirements of a just distribution.<sup>29</sup> Now the matter of distribution can be either goods or burdens, both of which fall commonly upon any multitude and have to be distributed among its members. For instance in our society the apportionment of social security payments and of income taxes must be regulated by distributive justice; the distributor must seek, in accordance with the law, to distribute these payments and obligations in such a proportion that the proportion of what one man has received and his worthiness to receive it—as measured by his services or value to the community as a laborer, or by his ability to pay taxes—will equal the proportion of what his neighbor has

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27. In *Ethicorum Libros*, V, 15.

28. *Ibid.*, V, 15.

29. 2-2, 61, 1 ad 3.



received and his worthiness. Distributive justice will require the receivers to comply with the law by giving the information necessary for sound calculations, to bring litigation if they are injured, to be satisfied with a just allotment, to receive whatever payments are made and to pay whatever taxes are laid.

All of these actions of distributive justice can become acts of legal justice if they are informed with an intention to do them for the sake of the common good. But it is obvious that a citizen can take his social security payments or pay his taxes because of a virtuous habit of contentment with equitable distribution, without any reference to the common good, or even when in fact and in his knowledge the distribution is contrary to the common good. We may suppose for instance that a municipal government, endowed by its state laws with the power to levy taxes for certain purposes, levies them in excess of the legal limitations, but distributes the burden justly among its citizens. The citizen who, knowing that the levy is unlawful and harmful and that legal action by him could forestall it without inconvenience to him, nevertheless pays his small assessment because it has been justly allotted, acts in accordance with distributive justice but sins against legal justice.

An error not uncommon in the traditional analysis of justice supposes that distributive and legal justice deal with the same matters, but differ in that distributive justice has to do with payments by the ruler toward his subjects in matters of common good, legal justice with payments by the subjects toward the ruler. Thus they assign the distribution of benefits to distributive justice, the payment of taxes to legal justice. This view mistakes the accident for the essence. It is not payment that is essential to the notion of justice, but the effectuation of an equality, of which payment is the usual means. Thus while the equality of distributive justice in the case of tax levies is brought about principally by the distributor, who as such pays nothing, it is brought about only instrumentally by the citizens who pay. Furthermore it is false to suppose that a difference in virtues is necessarily connected with a difference in the subject of those virtues. The specific difference between two virtues cannot be that they are found in different subjects, for instance legal justice in citizens and distributive justice in rulers. For virtues are specified by their objects. The object of distributive justice is an equal distribution of common goods, i.e. an equality in the persons to whom the distribution is made, which consists of an equality in the proportion of the goods distributed to each person with the merit of that person. The subject of this virtue,

the person who can be directed to this object, may be either the distributor or the receiver who is his instrument. Again, the object of legal justice is the common good; its subject, the person who can be directed to the common good, can be any member of the community, since the actions of anyone are ordinable to the common good. And these reasons show also why the distinction between the two virtues cannot be a purely quantitative one, which regards distributive justice as regulating the actions of one towards many, legal the actions of many towards one.<sup>30</sup> For it is not simply many, but an equality of many, which distributive justice aims at, and not in all actions, but only in distributions; for instance one merchant can be bound to many customers by commutative justice. And it is not simply the many who are the subjects of legal justice, but the members of a community; not any one who is its object, but the common good.

As a matter of fact, legal and distributive justice, instead of being complementary to one another as to the relations between subject and object, are actually very similar in that respect. Both of them are found primarily in the head of the state and secondarily in the subjects. In the case of legal justice, it is had by the sovereign architectonically insofar as he commands and uses all the members of the society for the good of the whole, and thus he has it principally. It is had by the subjects in two ways: primarily, insofar as they are directed toward the common good by the sovereign, and thus they have it instrumentally; secondarily, insofar as, themselves apprehending the natural law, they are guided by it to do virtuous actions and thus serve the common good, and when so acting they are principal agents. But since it is proper to subjects to be directed by their ruler, they properly have legal justice instrumentally; since the end of the ruler is to bring about the common good in its completeness, it is accidental to the ruling function that it does not in fact extend to all acts insofar as they are referable to the common good. Both legal and distributive justice exist in the same way; the difference between them is in their objects, and this difference in objects—one general, attainable by every virtue; the other particular, attainable only by a special kind of action—accounts for the great difference in their natures.

Legal justice then is not directly the virtue that pays taxes. It uses the habit of distributive justice for that purpose. How about obedience to law? Is it commanded by legal justice directly? The purpose of law is to make men virtuous, since this is the com-

30. 2-2, 61, 1 ad 5.

mon good toward which law is the directive principle. A law, then, which forbids drunkenness intends to inculcate temperance and the virtue of sobriety will cause the citizens to obey. But there are many acts commanded by law which are good only because so commanded, and not for any intrinsic reason.<sup>31</sup> Examples are observance of the technical regulations of draft registration, modes of executing punishment for crime, etc. What virtue commands the exercise of these acts, if not legal justice, which sees their usefulness to the common good?

The answer becomes clear when we remember that obedience is due not only to the laws of the state but to every superior. Every person who is a principle of our well-being deserves some reward. If he is the essential cause of some perfection in us, it is as a superior in some hierarchical order: whether that order is of creator to creature, generator to offspring, teacher to pupil, ruler to subject, a natural relationship of subordination is established in respect of the effectuation of the perfection in question.<sup>32</sup>

Wherever such a relationship of essential causality exists, its nature imposes certain functions on inferior and superior. The performance of his functions by the superior consequently creates rights which the inferior must respect; the superior is thus *other* not merely as the term but as the object of justice, since the adequation of justice is required by his nature as a superior. The debt is a legal, not merely a moral one. Let us consider an example of such a legal debt. Between a teacher and his pupil there exists a relationship which takes its nature from the character of the perfection which teaching seeks to impart. The function of the teacher is determined by that end. But the student who is taught incurs obligations to his superior likewise determined by the nature

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31. 2-2, 104, 2 ad 1.

32. Every benefactor as such is cause of the beneficiary. (2-2, 106, 3c.) But the person who bestows, not a real ontological perfection, but a mere extrinsic good or favor; or who bestows a real perfection accidentally (for instance a virtuous public figure who gives good example, or one whose conversation instructs his friend); gets no right to reward because he creates no natural relation of subordination, the subordination that results being merely casual. The beneficiary's debt, whether of gratitude or of honor, is a moral debt. (2-2, 106, 1c.; 3o.; 102, 2 ad 2.)

St. Thomas classified the virtues under discussion as follows: (1) those involving legal debt: religion; piety, to parents and to country; observance (respect for excellence). Obedience, which regards the precepts of superiors, is commanded by all of these; but is formally a single virtue, since it concerns not the mode of superiority but subjection to commands. (2) Those involving moral debt: chiefly, gratitude, vengeance (which regards, not the just retribution of another, but removal of the pain of injury from oneself), and truth; secondarily, liberality and affability, the latter including benevolence, concord and beneficence.



of the function; the most notable of which is docility. An obligation to another is such a legal debt.

Nevertheless, although in this sort of causal relationship between persons the kind of otherness, and hence the kind of debt, is that which strict justice demands, the adequation falls short of real equality. We cannot, for instance, give an equal return to God, the cause in its entirety of whatever being we have; or to our parents, the secondary cause of our existence and education; or to our country, the source of the material needs of life. Nor can a man repay adequately any training or work which perfects his very self. The civil ruler, who makes us virtuous; the teacher, who trains our intellects; the priest, who saves our souls, all render services which cannot be repaid according to equality. Even health, a mere bodily good, being a real ontological perfection, is not capable of being appraised and equally paid for. In these cases, since an obligation has been incurred, virtue requires that it be liquidated as far as possible. But it is a matter, not of strict justice, but of virtues annexed to justice.

For since any inferior, in virtue of being inferior, cannot render equality to his superior, he must give him as much as he can. And the greatest of corporal rewards, such as he can give, as Aristotle tells us,<sup>33</sup> is honor: and what is to be honored, of course, is not the work which the superior has done in us, but what is better, his own excellence by virtue of which he is able to do such a work. In addition we are obliged to render whatever services are required by this honor.<sup>34</sup> For instance to God is due the complete worship of adoration and sacrifice;<sup>35</sup> the service required is complete subjection to His will.<sup>36</sup> To our parents we owe reverence as the source of our life; the commensurate service is submission to their guidance during youth, and preservation of their safety in any distress, both being involved in acknowledgement of dependence for existence upon them.

One kind of service, however, is uniformly required, and that is obedience to the superior in the respect in which he is exercising his superiority. This is due, as has been said, by the very nature of the relationship. If a patient is to be cured, he must follow the physician's rules; if a student is being taught he must prepare the assignments. In the case of natural subordinations there is no such

33. Aristotle, *Ethics*, VIII, 8; cf. 2-2, 103, 1 ad 2.

34. 2-2, 101, 2c.; 102, 2c.

35. 2-2, 84 and 85.

36. 2-2, 81, 8o.; 82, 1c.

conditional character, and obedience to superiors in the matter of virtuous living is required as a debt and under pain of grievous sin, since authority in these matters comes from God.

Obedience therefore is the virtue that immediately obliges the observance of civil laws as the precepts of the rulers of the community, who by virtue of their office are superior in matters pertaining to the common welfare. Legal justice assuredly commands obedience, not only to civil rulers but also secondarily to any lawful superiors, and directs it to the common good. But it does not immediately elicit obedience.

It may be said that although obedience makes the subjects abide by the laws, there is no virtue that the ruler can use to make them. It is true there is no special virtue whose object is simply law-making, any more than there is a special virtue of training children in a father. The father in making rules for his children has to be guided by the very virtues he is trying to inculcate in them. There is no other moral principle for him to use. There are other intellectual principles: even the man who himself lacks the virtues he wants to develop in his children can be guided in his fatherhood by moral science, and by private and domestic prudence of the imperfect kind which is able to make correct judgments but not the commands which issue in good action.<sup>37</sup> But this prudence itself directs him only by finding the mean in the virtues he ought to have.<sup>38</sup>

Similarly the legislature in making laws for the state can only be guided by the norms of the moral virtues his laws ought to aim at developing. Like the bad man who is a tolerably good father, a vicious ruler can rule rather well by imperfectly following the regnative prudence which selects the means necessary to guide the state to its end.<sup>39</sup> But again these means have reference to the ends of the moral virtues.<sup>40</sup>

Now that these most formidable objections have been answered, the solution will be made plainer by an analysis of the way in which legal justice acts. Directed as it is to the good life of the society in general, the acts it elicits are necessarily the acts of other virtues. But it perfects these virtues by directing them to the common instead of private good. In a politically good act legal justice and the virtue it uses differ only formally; the act is completely the

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37. 2-2, 47, 13c.

38. 2-2, 47, 7o.

39. 2-2, 47, 10o.; 11o.; 50, 1o.

40. 2-2, 47, 6o.

act of each virtue. But legal justice in eliciting the act has informed the subordinate virtue with a higher principle.

An example will make this clear. How would virtue be affected if there were no legal justice? Let us suppose what is contradictory, a group of men without any social unity, without any common good. Someone has committed a murder and fled with the victim's wealth. If the survivors believe that he will not return to annoy them it will probably not be cowardly to let him escape to do possible damage to others, rather than take pains to seek him out and confine him. Furthermore it will be unjust to put him to death if he is captured. Now the requirements of fortitude and commutative justice are quite different granted a common good. It is now brave to capture a public enemy, it may be just to hang him. The norms of the virtues have been modified in accordance with a superior principle. The virtues themselves remain the same, their formal ends are the same, but they are used for a higher end.

The virtues which primarily affect the common good are particular justice,<sup>41</sup> fortitude,<sup>42</sup> and the quasi-potential parts of justice listed above<sup>43</sup>—those virtues which regard another person but fall short of strict justice. All the virtues have some relation to the common good. But the effect of legal justice on the norms of the virtues is greatest in those virtues most directly concerned with the common good. In addition to the example just mentioned from fortitude and commutative justice, there is the effect, too little realized by Catholic writers, of the debt to the common good on the determination of just price in exchange.

The general character of legal justice is now clearly established. It is important that it be carefully distinguished as a special virtue from another virtue which it seems to resemble. That virtue is patriotism, or piety toward one's country. The difference is not hard to draw. Legal justice is true justice; the debt it pays is a real debt and the equality of payment is real though analogical. What is due the society, which is a whole, is precisely the entire virtuous activity of all the parts, hierarchically ordered; because the good of the whole consists in this activity, virtuous human life. The virtuous life of a single man requires that the organs of his body perform their functions well and in due order. Their good functioning makes possible the natural perfection of human life, which is rational activity—in its highest form, contemplation. And they

41. 2-2, 58, 7o.

42. 1-2, 96, 3o.

43. *Supra*, 20, 18n.

share in the perfection of the whole man. The body governed by a virtuous soul is well off, since it is completely directed toward its best good.

The order in the parts of the social whole is like that of the body in being rational. The perfection of the life of the state is, again, well-ordered rationally, and eminently contemplation. The way in which the benefits of the virtuous life of the whole are shared among the parts is even clearer in the social whole. The rationally ordered state is first of all at peace within. Its members are guided to the development of the best mode of virtuous life of which they are capable. All share in the discoveries of scholars and in the researches of contemplatives. Now just as metaphorical justice in the individual absolutely requires the complete subordination of all the lower powers to the rational soul, so legal justice requires the complete subordination of every individual activity to this common good which is a common virtuous life. There is an otherness that admits of real justice, and the debt of justice is the entire life of the parts insofar as it has any reference to the life of the whole.

The debt of legal justice is a large one, but it is one that can be paid. Quite different is the debt of patriotism. We owe homage and service to our country, to the officials who represent it, and to the fellow-citizens who are its friends, not as an adequate repayment, but as the best we can make, for the necessary means of life itself of which our country is the source. Patriotism regards the country as an altogether extrinsic principle of our being and guidance. Legal justice regards it as the whole of which we are parts, as an ultimate end somehow intrinsic. We cannot give an adequate return for being itself, but for our share in the common life we can give our life to the whole. That is what legal justice requires.

In contemporary conditions it is necessary to contrast the Thomist conception of the common good with the totalitarian view of the state, from which it could not be any farther removed. Nothing could be less congenial to Thomistic politics than the view that any human will, whether it be a statistically determined "will of the people" or the will of the leaders of a state, can be made an absolute principle of conduct. The members of a community are ordered to the will of the ruler only to the extent to which he wills the real common good, and the real common good being the life of virtue of the whole community cannot permissibly do a moral injury to its members. The virtuous life of the state is a life guided

by rational law; whenever a state power exceeds the law of justice, turns aside from the common good, legal justice requires of the citizens not submission but opposition. Furthermore it is a frightful error to say that the individual exists for the sake of state power. If it is true that the individual is entirely subordinate to the common good of the society, it is equally true and more important that society exists for the sake of men, and not a few but all men. The individual exists for the sake of the genuine common good because his own good is a social one; the common good is his own best development. The key to the Thomistic conception of society is provided by the doctrine that neither a private man nor the whole society is allowed to punish an innocent person.<sup>44</sup> Why? Because an innocent man has done no injury to the common good.<sup>45</sup> Not the will of a tyrant, but the perfection of human morality, constitutes the common end of nations.

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44. 2-2, 64, 6o.; 108, 4 ad 2.

45. 2-2, 64, 6c.



## CHAPTER III.

## THE MEANING OF THE TERM SOCIAL JUSTICE

## A. EARLY HISTORY

The first appearance of the phrase social justice known to this writer was in A. Tapparelli's *Saggio Teoretico di dritto naturale*, published in 1845.<sup>1</sup> He observed that "from the idea of right springs spontaneously the idea of social justice."<sup>2</sup> Tapparelli, a Jesuit, was among the most prominent Catholic political writers of his time, and this work had a considerable influence. The term did not become popular at once but it appeared occasionally, especially in Italian writings. An article in *La Civiltà Cattolica* for 1851 used it as follows:

The remedy thus suggested . . . reduces to that act of social justice demanded throughout civilized Europe today by a sense of nature as well as by science and experience, the abolition of the excess of **centralism**.<sup>3</sup>

It is of course difficult to decide whether these early appearances reveal a conscious use of a special term or a mere accidental juxtaposition of the two words. But in this passage a somewhat special meaning seems to be intended.

De Mun, the leader for three decades of French social Catholicism, explaining his idea of the guild in a speech before a convention of the *Associations Catholiques* in 1882, used the term as follows:

The guild as we conceive it is a community formed among employers and workingmen of the same profession, held together, first of all, by acceptance of the principle of social justice, which imposes on the former as well as on the latter reciprocal duties: that is the moral bond; and united by a common possession, by a corporate property arising from the voluntary sacrifices of both: that is the material bond.<sup>4</sup>

The sense of the passage suggests that the words were used with consideration, to mean the complex of rights and duties which form the moral bond of union in a community. A work by Georges Goyau, a leading writer in the French movement, indicates

1. Naples, 1845, 2v.

2. A. Tapparelli, *Saggio teoretico di dritto naturale*, +347. Cited in A. Vermeersch, *Quaestiones de justitia*, 14n.

3. "Ordini rappresentativi nel loro soggetto La Nazione," *La Civiltà Cattolica*, 5 (1851), 507.

what was probably the current conception of social justice in the Catholic social movement. That work was a kind of commentary on *Rerum Novarum*, published in 1893. It spoke of social justice as the principle of the "development of a social state where all duties are observed and all rights rigidly respected",<sup>5</sup> as the rule of justice, the maintenance of due order in society. An example of a right to be respected was the worker's right to a living.

Meanwhile the term had come into rather common use outside the tradition of the Catholic social movement. In 1894 an English collection of essays on religious subjects contained one entitled "Economic and Social Justice", deploring the absence in the Established Church of the social understanding displayed by Cardinal Manning.<sup>6</sup> A serious volume on *Social Justice* was published in 1900 by the American political scientist W. W. Willoughby. A series of university lectures, it gives us a notion of what thoughtful men understood by the term. "The problem of social justice," he wrote,

may be grouped under two general heads: the proper distribution of economic goods; and the harmonizing of the principles of liberty and law, of freedom and coercion.<sup>7</sup>

Furthermore,

justice consists in granting, so far as possible, to each individual the opportunity for a realization of his highest ethical self . . . this involves . . . the general duty of all, in the pursuit of their own ends, to recognize others as individuals who are striving for, and have a right to strive for, the realization of their own ends.<sup>8</sup>

Justice involves a recognition of individual rights. What social justice is principally concerned with is such a relation of those rights to legal restraint, and such an interpretation of them in the economic sphere, as will "produce the greatest aggregate of justice"<sup>9</sup> for the members of the community.

In spite of the individualistic character of this view of justice, it is apparent that there is much similarity in what de Mun, Goyau and Willoughby understood by social justice. For each of them it was the principle of a social organization in which just rights

4. A. de Mun, *Discours*, I, 378; quoted in P. T. Moon, *The Social Catholic Movement in France*, 101.

5. Léon Grégoire (pseud.), *Le Pape, les Catholiques et la question sociale*, 186.

6. A. R. Wallace in *Vox Clamantium*, London, 1894.

7. W. W. Willoughby, *Social Justice*, 11.

8. *Ibid.*, 24.

9. *Ibid.*, 27.

would be respected; each emphasized economic justice as primary; each spoke of a bond of law and order.

A pamphlet by F. Dugast of 1900 entitled *La Justice sociale* reveals another interesting notion of the term which must have had considerable currency especially among French Catholics at that time. He distinguishes social justice from eternal justice. The former is a society's interpretation of justice, obviously apt to be out of conformity with true justice.

Our social justice is only the justice of the political authorities, and we know what confidence they deserve . . . It is not to be believed that those who reap the benefits of the present iniquities will consent with good grace to cede to the people the monopoly of social justice which they enjoy.<sup>10</sup>

The author quotes without a reference a contemporary historian who used the term in the same way, speaking of the powerful devouring the substance of the poor in the name of social justice.<sup>11</sup> And the jurist Saleilles wrote in an article published in 1902:

The judge must accept as the basis of his methods of interpretation the idea and the conviction that there is an individual justice existing objectively, which ought to be in accord with the social justice of which the law is for him the imperative expression.<sup>12</sup>

This notion, reminiscent of Pascal, refuses to make the abstraction of the justice toward which society ought to aim, and regards social justice simply as the conventional justice established by the legal order of a particular political regime.

A few years later an Italian writer published a collection of articles dealing with social and economic questions under the title, *Verso la giustizia sociale*.<sup>13</sup> He saw in social justice the constant goal of mankind: an order in which the prosperous and peaceable development of all will be possible. Society being an organism, the tendency of social reform must be to replace internal struggle by cooperation. But the chaotic, anarchical attempts at reform of leaders and masses unguided by any directing principle can never produce good results. The idea of social justice is the principle

10. F. Dugast, *La justice sociale*, 69.

11. *Ibid.*, 64.

12. R. Saleilles, "Ecole historique et droit naturel d'après quelque ouvrages récents", *Revue Trimestrielle de Droit Civil* (1902), 105; quoted in C. G. Haines, *The Revival of Natural Law Concepts*, 256.

13. A. Loria, 1904.



which must guide social reform, and it is necessary to clarify the idea and establish it on a scientific basis.<sup>14</sup>

## B. THE LEONINE TRADITION

Meanwhile the moral theologians had undertaken to define the term social justice which had become so popular in a few years. In 1900 the Dominican Abbé Pottier, who had treated so ably of the wage question ten years earlier,<sup>15</sup> published a work *De Jure et Justitia*, in which he discussed social justice and concluded that it was synonymous with legal justice.<sup>16</sup> The following year the Jesuit Vermeersch published his painstaking *Quaestiones de justitia*. As a *scholium* to the section on legal justice he inserted the following paragraph:

Among recent writers there occurs not infrequently the phrase **social justice**. By this term they may mean a special virtue, which then cannot be anything but legal justice, or they may designate by it a complex of virtues which are used in society. For in the way that the name of justice denotes a universal rectitude of order to God, so the name of justice is least inapplicable to this principle of civil rectitude, by which someone through the various virtues behaves himself as he ought (therefore justly) toward society.<sup>17</sup>

The rectitude of which he speaks is metaphorical justice in the individual,<sup>18</sup> but as we have seen it is legal justice in the state. Thus his alternative of interpretation is reduced to one.

In fact interest in legal justice had so declined since the middle ages that almost no writers had an adequate understanding of it. The confusions some of which have been mentioned in the preceding chapter as to the nature of legal justice resulted from oversimplification based on superficial analyses of the problem. Most of the controversies about the meaning of social justice were to spring from this source.

Since Pottier the commonest opinion among moral theologians

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14. A. Loria, *Verso la giustizia sociale*; see esp. *Introduzione*.

15. See *Ante*, 29.

16. R. D. Pottier, *De jure et justitia* (Leodii: Ancion, 1900), diss. 3, n. 33; cited in A. Vermeersch, *Quaestiones de justitia*, 46.

17. A. Vermeersch, *op. cit.*, +51, 46.

18. St. Thomas, *Summa Theologica*, 2-2, 58, 1 ad 2; 2o.

has been that social justice is identical with legal justice.<sup>19</sup> This use of the term seems to have been generally adopted at the *Semaines Sociales*, the program of social conference organized in 1904 as a development from the study groups of the French Workingmen's Clubs.<sup>20</sup> The Abbé Calippe said for instance in the 1913 session that the virtue

by which each directs himself to the end that the society becomes for all its members a milieu more and more in harmony with the personal end which they have to attain . . . has for formal object the good of the collectivity, of the society, whence it takes its name of social justice, and it relates . . . to that collective good, not only a determined category of acts, but all acts, the acts of all the virtues, and from this comes its other name of general justice.<sup>21</sup>

Father Janvier, in his Lenten conference of Notre Dame de Paris, 1918, used social justice to mean legal justice.<sup>22</sup>

The champion of this usage is Father M. S. Gillet, O. P., who has defended it in a number of books and articles. In a discussion of legal justice he asks why St. Thomas gave the virtue such a name; if it is "the justice which has directly for object the common Good of the society",<sup>23</sup> why was it not named social justice? He answers as follows:

In giving to this justice the name of "legal," St. Thomas has put the accent on its **formal aspect**; it pertains formally to law in its effect of looking toward the common Good and of regulating those acts of the citizens which concern it. If we propose today to displace that accent, to put it on the **final aspect**, it is because for usage, which is in fact master of language, the expression "legal" has lost much of its moral value . . . If the expression **legal justice** is maintained to characterize our obligations of conscience in the face of the common Good, I fear that even Catholics will take advantage of the word to dispense themselves from the thing; that they will attempt to release themselves from their social

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19. See R. Tummulo, S. J.-T. Iorio, S. J., *Compendium theologiae moralis* (Naples: D'Auria, 1934) I, 400; B. Merkelbach, O. P., *Summa theologiae moralis*, II, 265n.; M. Prummer, O. P., *Manuale theologiae moralis*, II, 66n.

20. Cf. P. T. Moon, *The Social Catholic Movement in France*, 320; 339-346.

21. C. Calippe, "La conception catholique des devoirs d'état", *Semaine Sociale de France*, Xe session, 1913, compte-rendu, 87.

22. Cf. A. Michel, *La question sociale et les principes theologiques*, 216-217.

23. M. S. Gillet, *Conscience chretienne et justice sociale*, 141.

obligations as they do with respect to laws which they esteem purely penal, and especially that outside the realm of what the laws expressly command them, they will believe themselves still less obliged in conscience to subordinate to the common Good the acts of all their moral virtues, contrary to what St. Thomas demands of citizens in the name of the justice which has the common Good for object.

It is thus not by caprice, nor through a certain taste for modernity, that I propose to substitute the expression social justice for that of legal justice, but for very serious motives.<sup>24</sup>

Law today is not held in very high esteem. Father Gillet might have added, as a reason for abandoning the scholastic term, that legal justice has in modern times taken on a special meaning quite different from its traditional one. It is used to mean the incomplete, formalistic justice that positive law and its instrumentalities provide, and is often opposed to real justice or fairness. For these reasons Gillet believes that the term social justice ought to be substituted even if it were not already at hand.<sup>25</sup> The French Dominicans have followed him. Father Delos, in a note on the article of the *Summa Theologica*, which concerns general justice, explains the use of the different names of this virtue as follows:

In calling it **general** here, St. Thomas puts the accent on its **function**, and no longer on its **object**; in calling it **legal** he puts the accent on its **formal object**, the common good; today in calling it **social** we place in relief its **end**, which coincides with its **object** according to the general law of coincidence between an end and a form, the end being in the order of action what the form is in the order of being.<sup>26</sup>

Spicq<sup>27</sup> and Bernard<sup>28</sup> abide by the same usage. An article in 1937 on legal justice by the Dominicans P. Hyacinthus and M. Hering<sup>29</sup> says that

24. *Ibid.*, 141-142.

25. Cf. in addition to the passage cited, M. S. Gillet, "Responsabilité en matière de placements de capitaux," *Semaine Sociale de Toulouse*, 1921, Comptes rendus, 342-343; "Le problème social et la justice sociale," *Revue de Philosophie*, 33 (1936), 180-184.

26. J. Delos, O. P., in *La Justice*, text and French translation of the *Summa Theologica* of St. Thomas, 2-2, 57-79; note to Q. 58, 7, in v. 1, p. 57.

27. *Ibid.*, II, 190ff.

28. R. Bernard, note in *Les vertus sociales*, text and French translation of the *Summa Theologica*, 2-2, 101-122; 397-398.

29. "De Genuina notione iustitia generalis seu legalis juxta S. Thomam," *Angelicum*, 14 (1937), 464-487.

many public orators, magistrates, philosophers and theologians dispute about social justice, asserting that the social order cannot be restored without the principles of this justice which they call **social**, and which is commonly enough identified with **legal** justice.<sup>30</sup>

Father Philip Hyland's recent article in the **Thomist** advances a similar view.<sup>31</sup>

There is thus good reason for identifying social justice with legal justice. But a history of the term among Catholic writers shows the sharpest controversy on this point. In 1904, not long after Vermeersch's book had appeared, the noted theologian Tanquerey discussed social justice as follows:

**Social** justice, as here understood, is that by which the citizens are ordered to society and society is ordered to the citizens, for the promotion of the common good. It can be of three kinds: **legal**, **distributive** and **vindicative** . . .<sup>32</sup>

Conceiving mechanically of the common good as able to be portioned out among the citizens, Tanquerey supposed that it was the office of legal justice to give it to the society, and of distributive justice to return it to the citizens. He invented a new species of justice, vindicative, which St. Thomas had reduced to a commutation between the punished criminal and his victim, and a distribution granted by the judge.

A more valuable analysis was made at about the same time in a re-edition of the **Cours d'économie sociale** of the Jesuit Charles Antoine.<sup>33</sup> He distinguishes first of all metaphorical social justice from social justice properly speaking.

Metaphorical social justice consists in the state of health of the social body. All that expresses the meaning of social justice employed metaphorically is rendered with completeness and precision by the proper term: "social order," the order being in fact nothing else in the society than the conformity of the actual social state with the exemplary, ideal social state.<sup>34</sup>

30. *Ibid.*, 464.

31. P. Hyland, "The Field of Social Justice," *Thomist*, 1 (1939), 295-330.

32. A. Tanquerey, *Synopsis theologiae moralis et pastoralis*, III, 5. See J. P. E. O'Hanley, "Social Justice: Meaning, Necessity, Promotion," *Homiletic and Pastoral Review*, 38 (1938), 1152-53; this writer, following Tanquerey, divides justice into two kinds: commutative, which is particular and individual; and social, which is general. Social justice is subdivided into vindicative, legal and distributive.

33. This deservedly popular textbook has gone through many editions; its author was active in the *Semaines Sociales* and the social movement.

34. C. Antoine, *Cours d'économie sociale*, 139.

Apparently this metaphorical social justice is analogous with metaphorical private justice; it conforms the actual with the ideal state as the latter conforms the actual life with the perfect life of virtue. But just as this rectitude in the individual is nothing other than a due order in his faculties, so what is metaphorically spoken of as the social justice of the society is in reality legal justice among the members, according to which they are duly ordered to the whole. So much for his first distinction; he proceeds to others:

Social justice properly speaking . . . has for formal object the right to the social good, to the common good. But this common good can be envisaged in its **production** or in its **enjoyment**, thus two aspects of social justice; it concerns sometimes the right of the society against each of its members to the production of the common good, sometimes the right of each of the citizens against the society to enjoy that good. It has to regulate these two relations in the same direction and in a contrary sense. These two aspects reunited constitute, by their combination, integral social justice.

And thus one recognizes in social justice, as we have described it, legal justice and distributive justice.<sup>35</sup>

This passage regards legal justice as a kind of exchange justice, which pays a debt by rendering some work or thing. Now the payment of legal justice, as we have seen, is the virtuous act itself, not its product. Even when that act involves rendering a product to the state—if for instance it consists of paying taxes according to distributive justice—what is paid to the common good as its due under legal justice is primarily the virtuous act. What the author has actually distinguished is two kinds of act of distributive justice, distribution of common possessions and distribution of common obligations. Taxes are owed immediately because they are fairly assessed, only indirectly because the common good requires them. If by production of the common good is meant creation of a common possession which can then be used by the community, it is required by distributive justice.

But what is more probably meant is the production and enjoyment of the real common life. For the enjoyment of the social good is participation in the social life. Now the communication of the common life to the members of the society is a matter of legal justice, since the common good only exists in the unified life of the parts. If distribution of common property is used as a means to

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35. *Ibid.*, 140-141.



this communication, it is clearly a commanded virtue: principally legal justice, virtually distributive justice.

Thus Antoine's social justice reduces either to distributive or to legal justice. But if it is distributive justice it cannot have "for formal object the right to the social good" in the most proper sense. The common good insofar as it consists, not only of mere means to the virtuous common life, but of that virtuous life itself, cannot be distributed to the citizens because they already have it as soon as there is any.

This much of his analysis is unsound. But he continues as follows:

Let us resume and dissipate equivocations. Do we wish to designate, by social justice, the justice which ought to exist in the society? In this case social justice comprehends the different species of justice, and consequently commutative, distributive and legal justice or even equity. Are we dealing with the justice of which the society, considered as a moral being, is the **subject** or the **term**? Then social justice is nothing else than distributive and legal justice. Finally, in a sense more restrained and more precise, social justice can express the juridical bond of the society, the principle of unity of the social body, and then it is legal justice alone.<sup>36</sup>

Granted, in other words, that if social justice is one virtue it must be legal justice; still usage allows the term to cover a number of other meanings. Now if this is so the process of definition will be reduced to circumscribing and distinguishing those meanings.

This view was adhered to by a number of writers who believed that the current usage of the term extended its reference beyond legal justice. A moral theology textbook re-edited in 1909 contained the following observation:

**Social justice**, which is often talked of today, is customarily taken in the same sense in which legal justice has been defined. Nevertheless it is sometimes used in so broad a sense that it also includes those duties which are customarily referred to distributive justice, such as the division among the citizens of common goods and burdens according to the norm of equity.<sup>37</sup>

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36. *Ibid.*, 141.

37. E. Genicot, S. J.-I. Salsmans, S. J., *Theologiae moralis institutiones*, II, 416, +462.

One writer, Michel, believing the term could not be used precisely, advocated its rejection. First of all, he said, the word was ambiguous:

Social=what concerns society; and society is constituted by the relations of men with one another. But precisely all justice whatsoever, distributive, commutative or legal, regulates the relations of men with one another; **ex sua ratione justitia habet quod sit ad alterum**, says St. Thomas. All justice is thus social.<sup>38</sup>

Furthermore usage had been unfortunate. Social justice had been used to include the distribution of goods, the economic organization of society, and other matters which come directly under distributive justice. Even the best writers had not agreed on the content of social justice. It included also duties of charity and of natural honesty. Now it might be argued, he says, that these virtues all come under general justice, which requires obedience to all law, natural and divine as well as human.

But the term of "social" justice does not convey these precisions. It seems even to insinuate that the justice expressed by human law, which imposes the authority of the State, commands the accomplishment of all social duties; which is, we have seen, absolutely false, social duties resting on charity as well as on justice properly speaking.<sup>39</sup>

In answer to the last point, and without plunging too deeply into the extraneous question of the relation between duties of justice and duties of charity, it can be said that, if we are speaking of supernatural charity,—the love of God and of our neighbor for His sake,—the obligations of charity are not debts in the same way as obligations of justice. For charity is a love of friendship, and there is no justice between friends as such, since there is no otherness: a friend is another self. Now if charity does not itself bind us in debt to others or to the social whole, no merely natural virtue—not even general justice, the queen of the moral virtues—can make charity into a debt. The truth is that legal justice can command only the natural and not the theological virtues. It is absurd to think of these virtues which have God Himself for their object being directed to a created good, even though it be the noblest of human goods. Therefore, if by social duties is meant duties ordered to society as an end, they cannot rest on charity except mediately,

38. A. Michel, *La question sociale*, 217.

39. *Ibid.*, 221.

insofar as charity, itself a general virtue, directs social virtues to the service of God.

Again, Gillet has since shown that social has a less ignoble connotation than legal to modern ears. So the point that remains of Michel's argument is whether a virtue commanding the duties not only of legal but of distributive justice is a single virtue or an inept innovation.

The problem arises through an insufficiently precise understanding of the nature of legal justice. As a general virtue this justice commands all the other virtues, directing them toward the common good. And it commands them, it must be remembered, by informing them with a higher end than they seek in themselves. Furthermore it is not equally concerned with all the inferior virtues, but chiefly with those that have the greatest social effects. And its action on these is often so forceful as to change their operation markedly. In the case of distributive justice, most prominent of the social virtues, it drastically modifies the amount and the principle of distribution, in the interest of the common good. The huge distributions in modern states of social security payments, for which labor is so important a principle, are so powerfully influenced by the requirements of the common good that they seem to derive their obligation rather from social than distributive justice. But if social or legal justice is a general virtue, it accomplishes the social end of distribution by using the virtue of distributive justice.

Consequently, in deciding whether social justice is legal justice, we must look not to the acts of virtue that it exercises, but to the end for which it exercises them. If what is characteristic of an act of social justice is that it is done for the common good, then it is the same as legal justice, no matter how many kinds of virtues it uses.

And this can be our answer to the view of Father F. J. Haas, who in his sociology textbook **Man and Society**, published in 1930, defends the invention of the new term social justice with arguments similar to those with which Michel rejected it:

Although "social justice" governs practically the same jurisdiction as does legal justice, nevertheless it involves certain duties to society over and above those required by actual statute and custom. For example, all the community and philanthropic activities of a "public spirited" man are not, as a rule, demanded by legal justice. In this broad sense,



the term "social justice" can hardly be objected to; rather, it proves of value in classifying human relationships.<sup>40</sup>

The term used in this "broad sense" only confuses classifications. All the activities of a public spirited man are assuredly demanded by legal justice.

In addition to the view that social justice comprises a number of virtues, there has been another fairly widespread one, that social justice is an altogether new virtue. The arguments advanced for it are the most serious and weighty, as they must be to persuade us to introduce a new compartment into what appeared to be an exhaustive division.

The monumental work of the German Jesuit Heinrich Pesch, *Lehrbuch der Nationalökonomie*,<sup>41</sup> created an economic and social doctrine called **solidarism**. Pesch based his economic analysis on the bond, factual and moral, which unites the members of society with one another and the social whole, and the whole with its members. Since man is a being not merely social by nature, but whose actual existence is always in a concrete social environment, the abstract theories of individualism can neither explain nor guide society; on the other hand the socialist theories which tend toward denial and destruction of individual life make an equally unreal abstraction. Solidarism, a mean between these extremes, bases social unity on human nature and the common good.

Since solidarism is a directive or ethical principle as well as an explicative principle it must be based on moral reality. The moral principle of social life is the common good. The basis of solidarism is the principle of the mutual rights and duties of society and its members. Pesch called this principle social justice.

In the middle point of the system stands **social justice**, both for the whole and all single classes, solidarity as a social duty, firmly grounded in the moral world order.<sup>42</sup>

Pesch seems to have understood social justice to be the same virtue as legal justice as we have expounded it. In the same passage he distinguishes it from other virtues in these words:

Charity, which is able to ease and heal the individual needs of many individual members of society; private justice, which protects each physical and moral personality in the sphere of its rights; social justice, which protects the com-

40. F. J. Haas, *Man and Society*, 75.

41. Freiburg: Herder, 5v., 1904-1924.

42. Quoted in H. Lechte, *Der christliche Sozialismus*, 15.

mon good, which prevents or removes the misery of the masses and classes, which furthers the spirit of community in the members of society . . . <sup>43</sup>

And in a pamphlet written with Pesch's cooperation in 1919 to expound the doctrines of solidarism, his disciple Lechtape speaks of "social justice, the good of all fellow-citizens," and "a social or legal, a distributive, a commutative justice".<sup>44</sup>

But the later adherents of solidarism have come to regard legal justice as too narrow and rigid for the function they want it to perform. Thus Gundlach, one of the most brilliant Catholic social thinkers of the contemporary period, says in his article on "Solidarismus" in the *Staatslexikon* of the *Gorres-Gesellschaft*:

But if one asks about the kind of "justice" that corresponds to the principle of solidarism as a demand for rights, it cannot fall under the well-known threefold division of commutative, distributive and legal justice. For firstly these kinds of justice presuppose a relatively closed social structure, whereas the solidarist principle as the principle of the life of society is precisely the directive principle of its becoming, of its self-realization. Secondly the kinds of justice named contemplate the social life processes in a static cross-section, in a particular stage of development, whereas the solidarist principle is the principle directive of social life precisely in its constant movement, in its functional connection. Consequently the essential and directive principle of solidarism implies a proper species of justice: **social justice**. It implies, not like the three other kinds of justice only **one** direction of the cohesive relations within the community, but, according to the essence of the solidarist unity, precisely the **double** direction of these cohesive relations as such; it protects the rights of the individuals and of the community alike. It forms the basis of the **dynamics** of that side of the life of the society which is concerned with rights; it forms and guides the rights-relationships within the society and realizes itself in the three static forms of justice.<sup>45</sup>

Another Jesuit, Father Rocaries, after a similar investigation of the incapacities of legal and distributive justice to fulfill the

43. Quoted in *Ibid.*, 14.

44. *Ibid.*, 5.

45. *Staatslexikon*, IV, 1616.

functions of modern justice, arrived at the following definition, which Monsignor Ryan has praised in a recent article,<sup>46</sup> of the new virtue of social justice:

Social justice is the virtue which governs the relations of the members with society, as such, and the relations of society with its members; and which directs social and individual activities to the general good of the whole collective body and to the good of all and each of its members.<sup>47</sup>

What is the value of the charge that the traditional justices are one-sided, one-directioned? Our analysis has shown that justice, considered in itself, has a single direction; its object is a person equalized. Nevertheless an act of particular justice implies a mutuality of obligation, simply because justice requires an otherness. This is especially clear in the case of commutative justice; if one party to an exchange must pay, it is because the other has given him something; if there were no other party to give, there would be no exchange and no justice. But there is also a mutuality in distributive justice; it requires that the distributor make a just division, and that the receivers acquiesce in that division. The object of the distributor's act of justice, a person who receives a distribution, becomes the subject of the same justice by acquiescing in it; although the reciprocity is not perfect, since he does not make the distributor the object of his justice.

But in legal justice there is in one sense no mutuality at all. The community as such has no real duties to the individual, because the community is the end of the individual. The common good is the individual's best good; he as a part is completely ordered to the social whole. The moral person which is the community owes nothing to the individual, because it does not find in him an end autonomous to its own end, to which he is subordinated. The individual person is protected from the community, not by any private rights against society, but by the nature of the common good, which consists in the virtuous life of the whole. If that life is attained, it is because the members of society participate in it; if the state injures an individual, it is only by injuring the common good. The social life, in the measure in which it attains to the standard of the common good, is shared by the members of the society. Consequently the way to get the common good into the possession of the members, the way to share among them the virtuous social

46. John A. Ryan, "The State and Social Justice," *Commonweal*, 30 (1939), 205-206.

47. A. Rocaries, "La notion de justice sociale," *Dossiers de l'Action Populaire*, Oct. 25, 1938.

life, is to develop that life, to serve the common good. There is no need for another direction to legal justice; what is good for the whole is good for the parts.

In fact the solidarist principle of society is rather damaged than buttressed by the idea of a social justice with this double direction. It implies a fundamental difference in end between the community and the individual, a real independence between the common good and the private good. Thus the idea of a natural solidarity based on the common good is destroyed and society appears held together by the bonds of a two-directioned justice in a merely accidental unity.

Father Gundlach also criticizes the traditional justices as being static, rigid, closed, whereas social justice is adaptive, functional dynamic. It is true that the act of justice looks to a particular adequation, under a particular set of circumstances. It is also true that the virtues of commutative and distributive justice, considered in themselves, attain their objects in a very formal and changeless way. But as for legal justice, it must be remembered that its object, the common good in all its particularity here and now, is nevertheless the virtuous life of the real community. If there is any virtue whose object is a dynamic one, it is legal justice. And legal justice vivifies all the other virtues, including particular justice, by conforming them to its own object.

Another theory than Gundlach's has attained considerable popularity, and that is the one developed by Messner, a man very prominent in Catholic social thought. His views are summarized in his article on "**Soziale Gerechtigkeit**" in the **Staatslexikon**. "The object of social justice," he says, "can be only the relation to the common good." Now duties regarding the common good are of two kinds: those based on positive state law, and those based on the unwritten law of nature. The traditional doctrine, Messner supposes, made the first kind the object of legal justice, while not denying that there remained duties of justice with regard to the common good which had not been commanded by the actual positive law.

All acts which injure the common good are accordingly a violation of common-good-justice;<sup>48</sup> i.e., the justice which imposes duties toward the common good.<sup>49</sup>

Legal justice is general justice, he says, because the acts of

48. The German "**Gemeinwohlsgerechtigkeit**" is used in a quite precise sense.

49. J. Messner, "**Soziale Gerechtigkeit**," **Staatslexikon**, IV, 1664.

many virtues can be required by positive law and thus commanded by legal justice. "Common-good-justice" is also a general virtue, and the best kind of justice; whereas particular justice orders only external acts, the common-good-justice which uses it orders also internal dispositions, since these have a relation to the common good.

In the broadest sense then, social justice can mean the virtue which commands duties to the common good insofar as they are required by the natural law, in distinction from legal justice in the narrow sense which requires only the duties of positive law. In this sense

social justice comprises first of all the duties of individuals and social groups regarding the common good, which have not become the object of political legislation, then the acts of legal (in the narrow sense), distributive and commutative justice and finally the acts of all other virtues, so far as these are commanded by the common good.<sup>50</sup>

This conception emphasizes the social character of all rights; the **objective** social justice corresponding to this meaning would be the social order itself. But this is not the only possible nor the commonest meaning.

In a narrow sense—and such a one seems to lie at the basis of the expression used today—under social justice can be understood the justice which orders to the common good the relations of the social groups to each other (ranks and classes) and to the individuals as members of them, by requiring each of them to give to every other that share in the social good to which it has a right corresponding to the performance which it contributes to that good.<sup>51</sup>

In this sense social justice has its application in socio-economic life; it is a special kind of common-good-justice, distinguished from legal justice which operates in political life. Granted that the socio-economic and the political spheres are not opposed, still they are not identical; the society is more than the state, even though the state through its laws is its ordering principle. And we see in the actual development of social life the need for this special concept of social justice. To the extent to which modern society has extended the sphere of economic relations and created an economic unity more and more important with relation to political unity,

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50. *Ibid.*, 1664.

51. *Ibid.*, 1664-1665.



the traditional kinds of justice have become increasingly inadequate. Commutative justice, which in primitive economies was adequate to determine price, wages and interest, has to be replaced more and more by common-good-justice. "There have arisen new **duties and rights**, which can very well be comprised under the concept of social justice," in this special sense. The individual is entirely integrated in and dependent for his livelihood on the social economy. Wages and prices are set more and more by agreements between associations. The increasing importance of social groups and their necessity for economic life creates group rights and obligations which are the object of social justice.

Accordingly the subjects of these rights and duties are not individuals, nor the state, neither of which is directly concerned with the responsibilities in question; but the social groups. The individuals are the subjects of these obligations only as members of the groups; so for instance a "cultural wage" is not obligatory under justice unless it has been established by agreement between labor organizations and employers; though the organizations have the right to press for such agreements by all ethical means.

Among the rights which social justice aims to guarantee in this media fashion to individuals are the following: the right to work, the right to economic opportunity, the right to security of existence, the right to be organized into groups fully and officially articulated into the social whole and exerting a proportionate influence therein. The general duty imposed on the social groups is not to injure the just claims of other groups.

Of the two meanings which Messner allows for social justice, some have followed one and some the other. Schilling prefers the following interpretation:

One can define social justice as the virtue which inclines toward observing the norms of natural law, immediately given with reference to the common good, which have the purpose of effecting the proper adjustment of goods and interests within the social organism and securing for each group and each member the share and protection due them.<sup>53</sup>

Social justice is a part of legal justice, ordering economic affairs to the common good through the norms of natural law, while the latter orders everything and through all law, positive as well as natural. Noldin and Schmitt, in a recent re-edition of their moral

53. Cf. O. Schilling, "Die soziale Gerechtigkeit," *Theologische Quartalschrift*, 114 (1933), 272-273.

theology textbook, give an explanation of social justice in a more special meaning very similar to Messner's:

**Some** hold that social justice is identical with legal;—**others** think it is a general virtue which (like general charity) ought to inform all social acts;—**others** finally, considering all the texts of the Encyclical which treat of social justice, declare it to be a **special virtue**.

Whose **material object** they assign as follows: various rights, having an undetermined subject of execution (the right of acquiring and increasing material goods, the right of paying or receiving wages other than by agreement, the right of finding or furnishing work, the right of associating oneself with others and profiting as much as possible by small groups). The **formal object** of social justice is the natural honesty of conformation of these rights with the same rights of all and of members of the whole society. Therefore it seeks to so temper these rights and their use that other members of the social whole (whether individuals or intermediate societies) may not be impeded and restrained in the use of the same rights. So it hinders the accumulation of great wealth in the hands of a few and the domination resulting therefrom; it strives to reduce or remove unemployment; it procures such an order of economic life that family wages can be paid; it mitigates free competition, and in place of the class struggle "the various members of society are joined together by a common bond."<sup>54</sup>

**Therefore social justice differs from legal** by its material and formal objects; furthermore by the fact that social justice has as formal term each and all members of society according as they are in society, while legal justice has as formal term the whole society taken collectively; furthermore legal justice respects only obligations in the particular civil society of which one is a citizen, while social justice regulates every society and the whole human society.

Thus if St. Thomas' division of justice into general and particular is retained, social justice can be included as a part of general justice.<sup>55</sup>

These interesting views rest on a misunderstanding of the nature of virtue and of justice in particular. We have already seen why a difference in the source of obligation cannot differentiate

54. *Quadragesimo Anno*; cf. *Four Great Encyclicals*, 145.

55. H. Noldin, S. J.—A Schmitt, S. J., *Summa theologiae moralis*, I, +275.

the virtue which renders that obligation.<sup>56</sup> The duties created by positive law are fulfilled, insofar as they are debts, by the same virtue as those resulting from natural law. The fact that the notion of legal justice has been so corrupted that in its most common usage it does not mean as much as it ought to does not excuse the creation of a virtue to correspond to that corrupted usage and another one to cover the part of justice left vacant by the restriction of the traditional term. The virtues are not nominal classifications but real habits, distinct in kind.

Consequently if we wish to accept Messner's and Schilling's broad definition of social justice as the justice which serves the common good—and with a few qualifications it is acceptable as a definition of legal justice—we must reject their distinction between this virtue and legal justice taken in an arbitrary "narrow" sense.

The second and narrower meaning of social justice described so well by Messner and Noldin and Schmitt cannot be disposed of so easily; it raises important questions. If the political society can be a term of justice, cannot sub-political societies? And will not the nature of these intermediate societies create new rights and duties?

First of all it is clear that justice **toward** different social groups is not differentiated into kinds of justice according to those groups. Even when we are speaking of groups whose distinctness corresponds to a natural distinctness in function—for instance, the army or the clergy—the justice that must be done to them does not differ except materially. Something proper is due each class according to its natural function, but it is not due in a different way. Consequently no new justices are required to render particular justice to social groups or to individuals as their members. Furthermore the principles of commutative and distributive justice are identical whether the adjustment is among individuals or single groups.

Thus the view that the rights based on group or class needs require a new kind of justice to respect them appears untenable. These rights insofar as they exist are protected by commutative and distributive justice; nor are these modes of justice, when directed by legal justice, static and changeless, but the exigencies of the common good can call into being new rights with respect to them when the nature of things requires it.

What remains as a problem is whether there can be any obligations of the sort imposed by legal justice toward the social groups.

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56 See *Ante*, 10.

Messner has ruled out this possibility by saying that "the object of social justice can be only the relation to the common good." But Noldin and Schmitt's interpretation does not exclude it.

There are two societies which are directly required by human nature: the family and the political society. There are many other associations which are naturally useful to men: schools and universities, trade unions, cooperatives, for instance. Each of these looks to the promotion of some particular partial good. But whereas the political community is an ultimate end in the natural order, these associations are always means to the attainment of the common good, the virtuous life of the whole. Now the obligation of legal justice comes from the fact that the individual is entirely ordered to the social whole. But as for the sub-political associations of which we are talking, they are rather ordered to the ends of the individuals which compose them; not to their private ends, but to their common good in the formal sense. Certainly the contrary is not true; a worker does not exist for the sake of his trade union. He has a debt to his organization insofar as it leads him toward the common good. To the organization as such he owes nothing, except as an object of particular justice; his debt is really to the community, to be paid by means of participation in and service to his union. Thus there is no other virtue than legal justice which is properly directed toward the social groups of which these writers speak.<sup>57</sup>

A dissertation by E. Muhler in 1924 deplored the tendency apparent even then of certain writers to try to justify what they conceived to be rights by inventing a new jurisdiction for social justice.

Social justice has no place in the system of Catholic moral philosophy if it is anything more than a new word for an old thing.<sup>58</sup>

The old thing was legal justice. We have seen that all these authors who have distinguished social justice from legal justice have done so through not understanding what legal justice is. Our review of their opinions has shown that if there is any one thing they mean by the term social justice, it is legal justice as properly understood. No valid arguments have been brought forward to justify a new division of justice. Our conclusion must be

57. Cf. A. Pottier, *De jure et justitia*, diss. 3, n. 34; and A. Vermeersch, *Quaestiones de justitia*, 47-48.

58. E. Muhler, *Die Idee des Gerechten Lohnes*, 1924; quoted in O. Schilling, "Die Frage des gerechten Lohnes," *Theologische-praktische Quartalschrift* 85 (1932), 90.



that the commonest opinion is the right one and that social justice as a scientific term must be a new name for legal justice.<sup>59</sup>

### The Encyclicals

But the term has not had only a scientific use. Since Pius X the popes have made a doctrinal use of it. **Quadragesimo Anno** has often been called "The Social Justice Encyclical." The papal encyclicals, new in modern times, represent at once the culmination and the directive principle in the matters they teach. The authors of the encyclicals make use of the assistance and guidance of the most advanced and reliable Catholic thought and thinkers on the topical problems of which they treat. The question of the authority of the encyclicals has been much discussed,<sup>60</sup> and need not be argued here. What is most likely is that they have the weight of the Church herself in her ordinary teaching function. The Church is a prudent mother, and her mission to teach in all seasons is divinely given. Prudence and obedience forbid in her members that they reject her teaching for light reasons. Now the Church's teaching authority is confined to matters of faith and morals, and she teaches nothing under the aspect of science; nevertheless it is inevitable that scientific questions should arise incidentally in the course of her teaching. Also, as a human institution, the Church is fallible in human matters; her ordinary teaching, though sustained by special grace, is liable to error. It is only when speaking formally on a matter of dogma that she is preserved from error. If speaking informally she teaches something contrary to the truth of science, a man of science is justified in doubting that teaching. But this doubt is rash unless it is supported by weighty evidence and authority.

The encyclicals have in addition to this authority which is that of the ordinary magistracy of the Church, another authority which comes from the fact that they represent the opinions of the doctrinal leaders of the Church; and it is in such opinions, in the common teaching and tradition within the Church, that the virtual revelation, capable at any time of formal definition, is found.

59. Two careful dissertations within the last five years have dealt with this question. Father J. D. Callahan, **The Catholic Attitude Toward a Familial Minimum Wage**, examines the various opinions and concludes, for reasons similar to those we have given, that social justice ought to be identified with legal justice (99-112). Father P. Hyland, O. P., comes to a similar conclusion (cf. his article, "The Field of Social Justice," in the **Thomist**, 1 (1939), 296-330), though he believes that actual usage includes distributive justice in social justice. (Cf. 322n.)

60. J. Maritain in **The Things That Are Not Caesar's**, 25-41, gives an authoritative analysis of this subject.



Thus there are grave reasons why the encyclicals are to be regarded as authoritative expressions of Christian doctrine. But it must be remembered that they do not speak formally on scientific questions, and this is to be assumed especially in matters of detail. Yet even here they have at least the natural authority of the learned men who wrote them. Consequently the attitude of a man of science toward the encyclicals should be one of cautious criticism but extreme respect.

In the matter in which we are interested, there is reason to give great weight to the use of the term social justice in the encyclicals. First of all it is a term in ethics and consequently in moral theology, a "matter of faith and morals"; and it is not used incidentally but very intentionally and advisedly. Furthermore the encyclicals which express the best in contemporary Catholic teaching in language intended for the ears of all the faithful must be expected to use terms in accordance with their common meaning.

Accordingly if we find that the texts of the encyclicals do not support our interpretation, it is a sign that we have mistaken the meaning of the term and it is also a reason for modifying that interpretation in the interest of uniform usage.

Pius X in his encyclical of 1904 on Gregory the Great referred to that Pope as "justitiae socialis publicus defensor." Within the next twenty years a number of official documents emanating from the Holy See used the term.<sup>61</sup> Cardinal Gasparri, Papal Secretary of State, in a letter of July 9, 1928, addressed to the French social leader Eugene Duthoit, defined social justice as follows:

that virtue which orders to the common good the exterior acts of all the other virtues.<sup>62</sup>

It is surely legal justice which is meant.

In **Quadragesimo Anno** the term appears eight times. The passages follow:

Wealth . . . must be so distributed amongst the various individuals and classes of society that the common good of all, of which Leo XIII spoke, be thereby promoted. In other words, the good of the whole community must be safeguarded. By these principles of social justice one class is forbidden to exclude the other from a share in the profits.<sup>63</sup>

61. Cf. N. Noguér, "Que significa justicia social? **Razon Y Fe**, 99 (1932), 319-20.

62. Quoted in *Ibid.*, 321.

63. In **Four Great Encyclicals**, 138.

Each class, then, must receive its due share, and the distribution of created goods must be brought into conformity with the demands of the common good and social justice, for every sincere observer is conscious that the vast differences between the few who hold excessive wealth and the many who live in destitution constitute a grave evil in modern society.<sup>64</sup>

To lower or raise wages unduly, with a view to private profit, and with no consideration for the common good, is contrary to social justice which demands that by union of effort and good will such a scale of wages be set up, if possible, as to offer to the greatest number opportunities of employment and of securing for themselves suitable means of livelihood.<sup>65</sup>

The economic supremacy which within recent times has taken the place of free competition . . . cannot, however, be curbed and governed by itself. More lofty and noble principles must therefore be sought in order to control this supremacy sternly and uncompromisingly: to wit, social justice and social charity.<sup>66</sup>

This economic regime . . . violates right order whenever capital so employs the working or wage-earning classes as to divert business and economic activity to its own arbitrary will and advantage without any regard to the human dignity of the workers, the social character of economic life, social justice and the common good.<sup>67</sup>

The public institutions of the nations must be such as to make the whole of human society conform to the common good, i.e. to the standard of social justice.<sup>68</sup>

Class war, provided it abstains from enmities and mutual hatred, is changing gradually to an honest discussion of differences, based upon the desire of social justice.<sup>69</sup>

God grant that . . . they may remain, amongst the ranks of those who . . . unremittingly endeavor to reform society according to the mind of the Church on a firm basis of social justice and social charity.<sup>70</sup>

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64. *Ibid.*, 139.

65. *Ibid.*, 143.

66. *Ibid.*, 147.

67. *Ibid.*, 150.

68. *Ibid.*, 152.

69. *Ibid.*, 153.

70. *Ibid.*, 157.

The first two passages suggest that social justice commands distribution; from them several writers<sup>71</sup> have inferred that it includes distributive justice. But we know that distributive justice does not aim at the common good; a distribution in accordance with the demands of the common good is a distribution indeed, but informed by legal justice.

The next four passages imply the relation of wage justice to the common good and the way in which the common good can direct legislation and the social behavior of individuals. What virtue can do this if not legal justice? The last two passages certainly do not exclude this interpretation.

It is true that the use of the term leaves its meaning in a certain obscurity, but this is quite in accordance with the way in which the encyclicals are written. At the time of writing of **Quadragesimo Anno** the meaning of social justice was being controverted. The views of the German Jesuits who were so influential on the doctrines of the encyclical have been discussed. They were not in accord with other widespread and well-defended views. Accordingly the term was used to convey a meaning consisting so far as possible in what was common between the various most probable opinions. Nevertheless I think that the meaning of legal justice makes the best sense in these passages simply because other meanings tend to be contradictory.

Six years after the publication of **Quadragesimo Anno** Pius XI issued his encyclical on communism, **Divini Redemptoris**. A long passage discussed the nature of social justice in terms very favorable to our interpretation. But as far as definitive statement was concerned, it again left the question open.

In reality, besides commutative justice, there is also social justice with its own set obligations, from which neither employers nor workingmen can escape. Now it is of the very essence of social justice to demand from each individual all that is necessary for the common good. But just as in the living organism it is impossible to provide for the good of the whole unless each single part and each individual member is given what it needs for the exercise of its proper functions, so it is impossible to care for the social organism and the good of society as a unit unless each single part and each individual member—that is to

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71. Cf. N. Noguer, "Que significa justicia social?", **Razon Y Fe**, 99 (1932), 316-317; John A. Ryan, "The New Things in the New Encyclical," **Ecclesiastical Review**, 85 (1931), 2.

say, each individual man in the dignity of his human personality—is supplied with all that is necessary for the exercise of his social functions. If social justice be satisfied, the result will be an intense activity in economic life as a whole, pursued in tranquillity and order. This activity will be proof of the health of the social body, just as the health of the human body is recognized in the undisturbed regularity and perfect efficiency of the whole organism.

But social justice cannot be said to have been satisfied as long as workingmen are denied a salary that will enable them to secure proper sustenance for themselves and their families; as long as they are denied the opportunity of acquiring a modest fortune and forestalling the plague of universal pauperism; as long as they cannot make suitable provision through public or private insurance for old age, for periods of illness and unemployment.<sup>72</sup>

This passage explains the way in which the adjustments of commutative and distributive justice can be ordered by social justice toward the common good. It is in this way that the rights listed by Messner are required by social justice. Nevertheless the Holy Father does not entirely exclude the possibility of interpreting social justice to mean distributive justice or even a new virtue, anything in fact that can be distinguished from commutative justice.

The kind of approbation of a scientific tenet, however, that can be expected from the encyclicals is surely given to the view that social justice is legal justice in the proper sense of that term. A formal statement does not appear; nevertheless the texts make it easy to refute those who base some other notion of the term on what they regard as a necessary interpretation of the encyclicals.

### Popular Use

But unfortunately it is not the popes nor scholars who fix terminology, but those who use the terms. A brief summary of the interpretations given to social justice by the Catholic writers who used the term incidentally or popularly will be of some help in determining its meaning.

In 1912 the National Conference of Social Work at Cleveland adopted the following standard for an "approach" to social justice:

The welfare of society and prosperity of the state require for each individual such food, clothing, housing conditions,

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72. *Atheistic Communism*, 21-22.

and other necessities and comforts of life as will secure and maintain physical, mental and moral health.<sup>73</sup>

The emphasis on the common good makes this expression, which in fact suggests the passage quoted above from *Divini Redemptoris*, agreeable to the meaning legal justice.

The idea of social justice as a just order in society is a common one. The notion of seeking to bring about a just society implies a concern with the social good; those who put their trust in private virtue may hope for a good society or even expect one, but they will not directly want to make one. But aside from conjecture, those who speak of social justice as a just order generally have concrete ideas of what that order will involve. "It is necessary, in a word," says one,

that the whole mass of existing property should keep alive the whole mass of existing men, if we wish social justice to be satisfied.<sup>74</sup>

According to another the order of social justice "will give every family and the community the secure material means of a good life."<sup>75</sup>

Others without speaking of a just order demand various reforms in the name of social justice. What are these demands of social justice? They include social insurance, minimum wage laws, regulation of working hours, unemployed relief, economic security for workers and their families, opportunity to earn a decent living; full economic justice to employer and employee; share of labor in ownership, management and profits; consumers' cooperatives; strengthening of state power to help the poor, etc. The duties of social justice include payment of debts and taxes, putting justice before charity, etc. The thought is occasionally expressed that social justice is the cause or result of a new social conception of personal rights.

These demands, it will be noticed, when they do not have a direct reference to the common good, are for things which seem fair and just but to which no particular right is enforced. There are many such things, clearly able to be ordered to the common good, and thus commanded by legal justice, but for which it is difficult to find an obligation by any subordinate virtue. Thus

73. Quoted in W. J. Kerby, *The Social Mission of Charity*, 67.

74. A. Belliot, O.F.M., *Manuel de sociologie catholique*, 105.

75. Bishop E. V. O'Hara of Kansas City, "Statement on commemoration of the Anniversaries of **Reconstructing the Social Order** and **The Condition of Labor**," *Ecclesiastical Review*, 94 (1935), 449-450.



Arregui, in his *Summarium Theologiae Moralis*, doubtful whether a family wage is required by strict commutative justice, has no hesitation in saying that it is due in legal justice.<sup>76</sup> This does not mean that legal justice commands them immediately; the subordinate virtue is used, but it is affected so considerably by the requirements of the common good that it is difficult to distinguish it.

Furthermore it is quite usual for Catholic popular writers to say, in accordance with the encyclicals, that social justice is the virtue directed toward the common good, or that it seeks the common welfare. For instance Father G. C. Treacy, S. J., in the "Discussion Club Outline" published with *Divini Redemptoris* in the Paulist Press edition, says that

social justice binding alike employer and employee . . . demands from each individual all that is necessary for the common good.<sup>77</sup>

The views of Father C. E. Coughlin, who has brought the term much fame and notoriety, deserves to be mentioned. He writes in one passage:

Social justice deals with classifications of men, or vocational groups of men . . . Each classification must render to every other classification its just dues.<sup>78</sup>

This view resembles some of those treated above. But the social reference of the "just dues" in question becomes clear from other statements. Social justice turns out to mean just production and distribution of wealth to all. The evils condemned as social injustices include excessive taxes, farm losses, want in the midst of plenty, protection of vested interests, inequitable participation of the working class in the profits of industry; with special emphasis on money tyranny. Even here no considerable violence would be done to his notion of social justice if it were interpreted to mean legal justice.

A pamphlet prepared by the National Catholic Welfare Conference in 1935 explained the demands of social justice in this way:

In the field of production social justice demands such a use of our natural, technological and human resources as will provide all our people with a decent livelihood and en-

76. 231, +405.

77. *Atheistic Communism*, 42.

78. C. E. Coughlin, "Social Justice: How to Attain It," in a symposium on *The Modern Social and Economic Order*, 353-354.

sure a steady elevation of the standard of living . . . In the field of distribution, social justice demands a far greater measure of equity than now obtains in the United States . . .

In more specific terms, social justice demands: wages and hours which will ensure continuous employment, a decent livelihood and adequate security for all workers; the prices of commodities so adjusted and interrelated that the various groups of producers can command the means of a decent and appropriate livelihood; such a reduction in the general rate of interest as will on the one hand, evoke sufficient saving for the common good, and on the other hand, permit neither excessive investment nor insufficient consumption. Finally, social justice requires all the economic classes to promote the common good by a reasonable amount of honest labor and service.<sup>79</sup>

The proper organization of economic life would permit the people to fulfill that duty of social justice which requires them to build an economic order within a governmental order, that will pervade all ownership and all work, in the service of the common good.

Employees would have the knowledge and power to use their organizations for social justice to themselves and social justice in output and prices for all the people . . . Farmers, middle class business groups and the professions would be so organized that they could guide their function in society to their own welfare and to the welfare of others. This is social justice.<sup>80</sup>

These are clear enough statements of the subjects, object and most relevant matter of social justice as we have understood it.

### C. OUTSIDE THE LEONINE TRADITION

While social justice is primarily a term of social Catholicism, it has been widely used by people outside the Leonine tradition. It is commonly supposed that for any but Catholic writers the term has no consistent meaning. It will nevertheless be useful to examine the chief uses of it by others. The books of Willoughby and Loria have already been discussed.<sup>81</sup> Willoughby's primary concern was with distributive justice and individual protection, but

79. *Organized Social Justice*, 4-5.

80. *Ibid.*, 12-13.

81. *Supra*, 87-90.

Loria saw in social justice the directive principle of a cooperative social life, a conception similar to the one which identifies social with legal justice.

In 1914 the eminent American jurist Roscoe Pound, in an article tracing what he calls the "socialization" of law and justice, speaks of judges who "did not hesitate to contrast what they called legal justice with social justice."<sup>82</sup> By legal justice they meant the justice enforceable by strict law, directed toward individual rights; by social justice he means justice directed toward the public welfare. He observes as a sign of the socialization of law the

strong and growing tendency, where there is no blame on either side, to ask, in view of the exigencies of social justice who can best bear the loss, and hence to shift the loss by creating liability where there has been no fault.<sup>83</sup>

The chief regard, he believes, must come to be given to social interests; law must be ruled by the common welfare. But

the individual life, in which there is a social interest, is a moral and social life. Hence the social interest does not extend to exercise of individual faculties for anti-social purposes of gratifying malice.<sup>84</sup>

His idea of social life and social interest has a utilitarian aspect. But he has surely used social justice in the traditional sense of legal justice.

T. N. Carver in 1915 published a volume of *Essays in Social Justice*. The introductory chapter contains the following definitions:

On what principle or principles, according to what rules, shall the state control and discipline its members, and adjust their conflicting interests, protecting some and restraining others? That is the problem of social justice. It has to do with the internal economy of the nation rather than with its external relations. As to the individual, it has to do with his external relations with his fellow citizens rather than with his internal adjustments . . .

In the most general terms, therefore, justice may be defined as such an adjustment of the conflicting interests of the citizens of a nation as will interfere least with, and contribute most to, the strength of the nation.

82. R. Pound, "The End of Law as Developed in Legal Rules and Doctrines," *Harvard Law Review*, 27 (1914), 196.

83. *Ibid.*, 233.

84. R. Pound, *The Spirit of the Common Law*, 198.

Looked at from another angle the same idea may be expressed by saying that justice is the name for the moral obligation of the state, as distinct from the individual, with respect to its task of adjusting conflicting interests. Since the state has this to do, it must find out how to do it. What **ought** the state to do with respect to these conflicts, and how **ought** it to do it? These are the questions of social justice.<sup>85</sup>

Unfortunately this passage describes two kinds of justice: distributive justice, of which the state through its representatives is the subject, and which involves control and discipline, adjustment of interests, protection and restraint; and legal justice of a low kind, insofar as that distribution is one that "will interfere least with, and contribute most to, the strength of the nation." These two notions run along together all through the book. One chapter is devoted to showing

that distribution according to worth, usefulness or service is the only sound principle for society to follow in its exercise of legal control over the process; in other words, that this is the principle of social justice.<sup>86</sup>

At the same time the principle used to determine this canon of distribution, and to decide every question that is raised, is what will best conduce to "the strength of the nation." It is true that Carver conceives of this national welfare in a crude way; the emphasis is laid on economic survival as the test. Nevertheless social justice as he understands it is not too far from legal justice—it consists in just distribution ordered toward a kind of common good.

Paul Elmer More discusses social justice in his **Aristocracy and Justice**, published in 1915. Like Carver he gives a definition which looks very much like distributive justice, though it is ordered by a somewhat different principle than Carver conceives.

Social justice is such a distribution of power and privilege, and of property as the symbol and instrument of these, as at once will satisfy the distinctions of reason among the superior, and will not outrage the feelings of the inferior.<sup>87</sup>

But this apparently distributive justice in society is analogous, he tells us, with the rule in the soul of the private justice which is virtue. He regards individual justice as

85. T. N. Carver, **Essays in Social Justice**, 9-10.

86. *Ibid.*, 171.

87. P. E. More, **Aristocracy and Justice**, 120.

the inner state of the soul when, under the command of the will to righteousness, reason guides and the desires obey.<sup>88</sup> but "social justice complements, or even supplants, the conscience of the individual."<sup>89</sup> Now as we have seen the most characteristic thing about legal justice is its analogousness with virtue in the soul.

A book by John Bates Clark with the topical title **Social Justice Without Socialism** appeared in 1914. For one man to plunder another, he said, is contrary to just distribution, and so is any monopolistic practice that reduces the general income. The remedies that acts of these kinds require are such legislative enactments as anti-trust laws, tariff reductions, laws to conserve natural resources; and vigorous private initiative too. "Social justice" also, he says, "demands some effective way of getting legal justice," using the latter term in the sense which we deplored above.<sup>90</sup> Social justice in general is a just situation in society.

A little book by Stephen Leacock published in 1920 contains equally vague observations about social justice. He conceives of it primarily as an objective order, as a state in which the best possible economic situation is realized.<sup>91</sup> This state, in fact, is what free competition tends toward. Everyone gets a reward exactly proportionate to his efforts, the fruit of his labor. Social justice demands social legislation to correct the most serious injustices and provide a measure of equality of opportunity.

In 1927 one of Sherwood Eddy's books presented some discussion of social justice. It consists for him in fair behavior—not exploiting one's neighbor, not taking an excessive share of available wealth, nor oppressing the weak, but treating all equally. The justice of society which guarantees to everyone equality before the laws is social justice. And it is also a goal to be striven for, a just social order—"some distant measure of equality of opportunity that shall provide 'the good life' for all who toil."<sup>92</sup>

These views come only close enough to the idea of legal justice to attain the notion of an order of justice in society. Clark and Leacock want this order to be provided by a regulated competitive distribution; Eddy, by the practice of unimpeachable private commutative justice. Leacock sees no further than economic justice. They say little that has precise significance about the term, and

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88. *Ibid.*, 116.

89. *Ibid.*, 117.

90. Cf. *supra*. 30.

91. S. Leacock, *The Unsolved Riddle of Social Justice*, 41.

92. S. Eddy, *Religion and Social Justice*, 207-208.



there is no use conjecturing what they mean by it; but their views would lose none of their sense if we substituted the notion of legal justice for the ones they have about social justice.

A use of the term which is especially interesting in view of the author's general views on politics and law is that of Hauriou, the eminent French jurist. He opposes justice and the social order.

Justice has as its end *aequum et bonum*, that is to say an equality or at least a proportionality between men in the enjoyment of a good . . . The social order . . . has two kinds of end . . . to assure stability in its relations and to undertake to make a civilization, that is to say to develop a society susceptible of realizing in all its consequences the highest human type.<sup>93</sup>

The two are often in passing opposition; and when that occurs justice must give way, because

the social order is an element of society more primordial than justice . . . The social order represents the **minimum of existence** and social justice is a luxury which, to a certain measure, can be dispensed with.<sup>94</sup>

Social justice is the achievement and reconciliation of justice in the social order. And it is realized in varying degrees, like the ideal of beauty in an actual statue which the sculptor first chisels out roughly and perfects by constant retouchings. And the retouchings are limited by the nature of the medium; the static equilibrium of the social order should not be disturbed.<sup>95</sup>

Justice for Hauriou, consisting in equality or proportionality, is commutative or distributive justice. Social justice is the social incorporation of particular justice; not general justice in any sense, except virtually insofar as these virtues are vitalized by social recognition. It is in the ultimate primacy of the social order that we find the idea of the common good as the principle of all justice.

Social justice has not infrequently been used to mean distributive justice, but rarely in such a way as to distinguish it from the legal justice which uses distribution as an instrumental virtue. But the following passage from Robertson's well-known book on **Money** clearly divides it against the justice directed toward the common good:

If the effects of the instability of value of money were exer-

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93. M. Hauriou, *Précis de droit constitutionnel*, 36.

94. *Ibid.*, 37.

95. *Ibid.*, 40-41.

cised only on the way in which wealth is shared, they might not be of such fundamental importance: for though the consequent changes might not bear much relation to social justice, they would not necessarily diminish the total economic welfare of society, and might even substantially increase it.<sup>96</sup>

He considers a situation in which social justice, that is just distribution, might be violated while the common welfare was being advanced. Of this quite precise conception it can only be said that it is not very common.

Meanwhile a number of books were appearing which used the term in a sense very akin to that of legal justice. L. T. Hobhouse's **The Elements of Social Justice** was published in 1922.<sup>97</sup> Nearly thirty years earlier he had stated his views on social justice without using the term. Social reform required, he said, "a keener sense of justice, a livelier feeling for the common good, a broader and deeper sense of common responsibility."<sup>98</sup> The end of social action is social health and health requires cooperation of the members and functions of an organism. "In the body this relation of function and nourishment is called Health. In Society it is called Justice."<sup>99</sup> This view, derived from Green's influence, is similar to Plato's idea of justice. Now of course if social justice is the health of the social organism, the well-regulated life of the social whole, it is nothing but objective legal justice.

Irving Babbitt is perhaps the only important thinker who has made a point of attacking social justice. It is interesting to see what his criticism is and what is the social justice that he criticizes. He fears "substituting for real justice the phantasmagoria of social justice,"<sup>100</sup> because it represents a merely mechanical solution of what is for him the only problem of life, the problem of virtuous living, of ordering oneself well. He is unwilling

to shift, in the name of sympathy or social justice or on any other ground, the struggle between good and evil from the individual to society.<sup>101</sup>

Babbitt believes that any attempt to reform society as such is a symptom of the sentimental Rousseauian notion that it is not men

96. D. H. Robertson, **Money**, 13; 2 ed., 1929.

97. New York: Holt, 1922.

98. L. T. Hobhouse, **The Labour Movement**, 18.

99. *Ibid.*, 18.

100. I. Babbitt, **Democracy and Leadership**, 298.

101. *Ibid.*, 289.

who are bad in themselves, but it is only social institutions that are bad. The justice that is needed is justice between individuals. It is only as a "reply to the unrestraint of the individual" that "another doctrine of rights, the rights of society" has come forward.<sup>102</sup> The real remedy is an individualism based not on rights but on duties.

Babbitt as a humanist "would have the individual exercise the control" over himself "not primarily for the good of society, but for his own good."<sup>103</sup> In fact Babbitt lacks a clear notion of the common good as a properly social life; so that it appears to him that "social justice . . . means in practice class justice,"<sup>104</sup> or at best mere social utility. But while he has an inadequate notion of social justice and its object, he uses it in a sense clearly similar to that of legal justice. It is a notion of justice toward the society and its good.

At Carver's suggestion one of his students, C. W. Pipkin, who had an opportunity to go to Oxford, made a study under the direction of G. S. Adams of the growth of the social idea in France and England. The book which resulted was entitled **The Idea of Social Justice**. The conception of social justice which the explanatory chapters develop is based closely on the Aristotelian idea of legal justice. Adams writes in his Introduction to the book:

Justice is in its nature social, for it consists in the right relation of individuals one to another. But when we speak of Social Justice we are thinking of the collective expression given to the idea of justice through the laws and customs, the orders and the social provisions which express the will of the community. To find the answer to what is Social Justice, we must try to form a complete idea of the community, seeing the manifold relations within it, each of which contributes to the sum of Social Justice.<sup>105</sup>

That which alone can give order and cohesion to the efforts of society is the controlling idea of Social Justice.<sup>106</sup>

Plato's Republic is an idealization of social justice.

The author in describing the content of his book mentions the efforts which were made to express the ideal of communal good in the action of the legislature, in the expansion of the corporate activity of groups, and the ever increasing

102. *Ibid.*, 296.

103. *Ibid.*, 210-211.

104. *Ibid.*, 308.

105. C. W. Pipkin, *The Idea of Social Justice*, ix.

106. *Ibid.*, x.

function of voluntary organization in community life . . . In this study social justice is a definitely chosen ethical ideal of relationships existing between the State and individuals. By this ideal the England and France of today is judged, and the question asked is: Has the good life been made definitely a purpose of the community and of individuals in the efforts which have been made to bring about conditions which make the good life possible?"<sup>107</sup>

And in his conclusion he says:

Social justice will demand a social morality which will enable the community to get the best out of all individuals and thereby help to bring in the full creative spirit of the good community.<sup>108</sup>

For "the ultimate goal of social justice is the well-being of all the people."<sup>109</sup>

Social justice was early accepted as a slogan by religious groups of many denominations. An editor of **The Kingdom**, a radical Congregationalist weekly, in 1898 wrote that

social justice as a dominant passion of religion, instead of theological and ecclesiastical questions, is peculiarly modern.<sup>110</sup>

For the next few decades that passion was to dominate American Protestantism more and more.

The Central Conference of American Rabbis in 1920 adopted a "Social Justice Program,"<sup>111</sup> and in 1922 the Reformed Jewish Congregations adopted a Ritual of Social Justice on the Day of Atonement.<sup>112</sup> A book entitled **Social Justice (From Scripture and Jewish Tradition)** was printed in 1923 in honor of the Golden Jubilee Convention of the Union of American Hebrew Congregations of that year. Written by the managing editor of the Jewish Encyclopedia and with an introduction by Edward Filene, it presented a militant plea for the social justice preached by the prophets. The Social Justice Movement, "a fight to the finish for the rights of our fellow-men,"<sup>113</sup> founded not on sentimentalism but on the scientific basis of biology and psychology and a knowledge of economic and social facts, together with sympathy and understanding of human rights, was to strive for equality of opportunity and an extension of democ-

107. *Ibid.*, 8-9.

108. *Ibid.*, 551.

109. *Ibid.*, 552.

110. **The Kingdom**, May 26, 1898; quoted in J. Dombrowski, **The Early Days of Christian Socialism in America**, 113.

111. Printed in **The Survey**, 44 (1920), 654.

112. Cf. I. Singer, **Social Justice**.

113. *Ibid.*

racy to the economic sphere. In this, it must be confessed, there is no notion of legal justice because there is no notion of a common good. All that can be said is that this view would lose nothing by basing the demands of social justice on social rather than individual rights.

The fecundity of the term is witnessed by the crank doctrines and movements that have adopted it as a shibboleth. A remarkable book called **Social Justice, a Message to Suffering Humanity**, appeared in 1910. The author notified his readers that he had solved the problem of justice and morality by discovering the principles on which conduct must be based. "Now, for the first time," he declares, "have all social questions been reduced to simple questions of right and wrong."<sup>114</sup> All that one must do is discover what his self-interest is. He will find that it will not allow him to harm anyone else. When this is done social justice—a social state in which everyone is treated justly—will have arrived. An equally sententious treatment of the question appeared in a little book of 1926, **Social Justice: The Moral of the Henry Ford Fortune**, which concluded that "unhindered working of the law of Supply and Demand best does Social Justice." Father Coughlin organized a highly doctrinaire political movement around the term.

Some of the data is now at hand for answering the question, Is social justice in actual usage a single term? Vague and various as that usage has been, most of the meanings have had something in common. If we can make scientific use of words like socialism or liberalism, which have been applied in actual usage to everything under the sun, it is hard to see why social justice, a term with much greater uniformity of meaning, could not by careful definition be made capable of use by moral scientists. Now the most important thing in definition is to name **one thing**; and that is why conceptions of social justice as some new species or combination of virtues, though they could conceivably obtain some use in history or sociology, can never be adopted by ethical or political science. The next most important thing is to come as close as possible to the most common usage, both popular and technical. There is no one virtue to which social justice as the term is used could be more readily equated than legal justice; a majority of the meanings are reducible to legal justice as properly understood. Therefore if the term is to be used at all it should be used to mean legal, general justice. The question whether it ought to be used at all will be discussed next.

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114. P. V. Jones, **Social Justice, a Message to Suffering Humanity**.



## CHAPTER IV.

## CONCLUSION

## A. SOCIAL JUSTICE: THE VALUE OF THE TERM

The Encyclical *Quadragesimo Anno* has finally and definitely established, theologically canonized, so to speak, social justice.<sup>1</sup>

So writes a commentator on the encyclical. It seems temerarious to question the advisability of using a term which the Church has applied to the virtue directive of all social life. But actually it would be wrong to think so.<sup>2</sup> The term was used in the encyclicals because it was current. If it disappears from popular and scientific language papal documents can easily substitute another term. In fact if in ordinary usage it is as vague and meaningless a term as many believe, so that its employment is rhetorically damaging to the message of the encyclicals, it might be very useful to cause it to be discontinued. That there is such a thing as social justice, and that it imposes real obligations, it would be imprudent and rash to deny; but whether social justice is the best name for it is a question that ought to be answered critically.

We have seen that the notion that social justice is an extremely ambiguous term is founded on the fact, not that it is used with too many different meanings, but that it commonly and primarily is used to mean something that is not very well understood. The remedy for this condition is a wider and sounder understanding of the precise nature of the end, obligations and acts of the general justice with which social justice must be identified.

But it is possible that social justice is a term which by virtue of its connotations places difficulties in the way of the clear understanding that is desirable. The collection of opinions in the last chapter furnishes data useful for the solution of this problem. There has been a very evident tendency even for those who had at bottom a right notion of what social justice is to confuse it in some way with distributive justice. The views of Hauriou, Schilling, and Father Ryan are very illuminating in this regard. They wish to make social justice into particular justice because they want it to guarantee rights to individuals. For this reason there is a tendency

1. C. von Nell-Breuning. *Reorganization of Social Economy*, 5.

2. A. Michel, *La question sociale*, commenting on the first papal use of the term, observed that "it would be an exaggeration to hope to find in this use by Pius X a justification and, so to speak, a consecration of a term used currently today in sociology," 214.

to regard social justice as the principle of rights against society rather than obligations toward society.

Now in fact neither distributive justice nor social justice gives absolute rights against the society. A person who gets a distribution has a right against the distributor only in the sense that he is entitled to be paid proportionally with the other people who are objects of the distribution. Neither the distributor as the agent of the community whose goods are divided nor the community itself has any prior obligation to make the distribution other than the obligation that is created by the requirements of the common good, other than, that is to say, in social justice. It is only while distributing that the distributor is bound, and he is bound to respect the proportions of merits of those being paid. These latter have rights rather against **each other**, rights to their due share, than against the distributor or the community he represents. But the individualistic conception of natural rights, which denied society any proper end and confined the state to the function of serving the merely private needs of individuals, included among those rights many rights against a society bound in a merely external way to its members. This is the source of the notion that distributive justice creates rights against the society, and it is the individualistic residue in modern Catholic thought which is responsible for the tendency to identify this misconstrued distributive justice with social justice.

Is there anything in the name social justice which has encouraged this misinterpretation? Babbitt's suggestive criticism of social justice implies a criticism of the name. Social justice, he says, is another attempt to substitute a social solution of individual disorder for private virtue. He traces it to the twin roots of utilitarianism and romantic sentimentalism.<sup>3</sup> For the notion that some social rearrangement will improve things for the individual by giving him what he has coming is connected both with the romantic idea that institutions alone make people bad and with the utilitarian conception of society as a pure means to individual happiness.

The one-sidedness of Babbitt's views on social justice resulted from his own peculiar brand of moral individualism, from his failure to recognize the reality of the social life. But there is no question that the term in ordinary usage has the sentimental and utilitarian implications which he described. The connotation of the word social for the last century has been a humanitarian one. The duality

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3. I. Babbitt, *Democracy and Leadership*, 204ff.; 289ff.

of individual and social was made to correspond with that other duality so corruptive of ethical thought during the period, of egoism and altruism. Until the socialization of utilitarianism it was not only altruistic to be social, but society was expected to be entirely altruistic with respect to its members. This viewpoint still dominates the contemporary outlook on social problems, in spite of the altered content of the terms; so that while everyone assumes that society owes him something, the "social-minded" individual is praised for his generosity and idealism. Social justice is the title in whose name the individual demands things as his rights, and also a virtue of "social-minded" justice in those who do not claim more than is coming to them. Such is the common understanding of the term; and even though it is true that this understanding, in itself contradictory, would be adequately deepened if the true nature of the common good and social justice were realized, yet the confusion of our age about the relation of society and individual has hardened into slogans with little meaning. The very word social, with all the connotations that attached to it when, in the heyday of individualism, it was the latter's antithesis, hinders the diffusion of a sound knowledge of what social justice is and what its obligations are.

This being true, our first impulse would be to say that the term should be abandoned. But the matter is not so simple. First of all a rejection of the term is apt to mean a weakening of the power of the idea. For a new term cannot be flung into general use in a day; furthermore a change in terminology always causes confusion in the understanding of the thing named, as is sufficiently witnessed by the very introduction of the term social justice. Again, such a change is not only very slow but very difficult; many will cling tenaciously to the old terms; the history of science is full of examples of persistent use of the most inadequate terms in spite of repeated efforts to replace them. It is only a very serious reason that can justify attempting to disturb established usage in such matters.

Furthermore a fact that must be recognized is that there is no other term to use. Legal justice, as we have noted, today means something totally different from social justice. What confusions would not result from the scientific, not to mention the popular, use of the term legal justice in this sense! As for general justice, aside from the scientific objection that this term does not name the real essence of the virtue, it is one not likely to attain any popular appeal. All the terms which could usefully be employed for this

purpose have unfortunately already been appropriated to some confused or contrary meaning. We must make the best use of the only terms at our disposal.

And in fact social justice is a term that has much to recommend it. The arguments which Gillet and Delos used to justify it, which have been cited, have a good deal of force. The clarity of the term in itself may, if social justice becomes a popular virtue, have a salutary effect on the contemporary notion of society. Without intending to slavishly copy the terminology of the encyclicals, we ought to approve the precise use of the term social justice.

## B. SOCIAL JUSTICE: THE VALUE OF THE IDEA

The intellectual need which fostered the invention of the idea of social justice was the impotence of individualist thought to direct social life. The value of that idea is that it fills the need.

It remains to establish what Pius XI asserted in *Quadragesimo Anno*, that "more lofty and noble principles" than individualistic ideals "must therefore be sought in order to control this supremacy"—that of economic power—"sternly and uncompromisingly: to wit, social justice and social charity."<sup>4</sup> Is the idea of social justice so important that without it genuine reform of the socio-economic order is impossible?

If the virtue of social justice is important, then the idea of social justice is important; for virtue being a habit of doing difficult things according to a rational principle, it can never be developed or inculcated unless someone has the idea. But there is another way, a less intrinsic but a very instructive way, to tell whether an idea is important, and that is by the interest that men of ideas take in it. The growth of opposition to individualism was a growth in importance of the idea of social unity. In the last chapter we discussed the development of the term and the idea of social justice, the virtue of social unity. But what has been called the idea of social justice was expressed in other ways than the term social justice. In our century that idea has been exerting a constantly growing influence.

The direction given to its development in English and American social thought owes much to the school of idealists of whom T. H. Green was the most important representative in ethics and politics. Believing in an objective ethics which consisted in rea-

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4. *Four Great Encyclicals*, 143.

sonable self-realization and development, Green laid great emphasis on the value of the state in human life. Its function, he said, was not primarily a coercive and restraining one, but essentially a moral one. The purpose of the state was to help man to realize his reason, i. e., his idea of self-perfection, by acting as a member of a social organization in which each contributes to the better being of all the rest.<sup>5</sup>

He emphasized the reality of the common good as an end of human life and the duty of the individual to assist in its development.<sup>6</sup> However his thought was weakened by the combination, characteristic for idealism, of altruism and relativism in his moral doctrines, which renders them unattractive today.

Toward the end of the last century in France a doctrine was developed which achieved considerable popularity both in academic and in practical political circles under the name of "solidarism".<sup>7</sup> The school was started by the economist Charles Gide; Léon Bourgeois, a political leader, was the foremost apologist for it. On the idea of the quasi-organic character of society Bourgeois built the notion of collective responsibility and social debt. Since society has fulfilled its side of the social quasi-contract—not a historical contract but truly contractual because ratified by consent—by incalculably enriching, through centuries of protective development, the heritage of its present members, the latter have a genuine obligation of repayment. This payment is to be made by the wealthy, who have benefited most by the social arrangements, to the underprivileged. The practical reforms required as a payment of the social debt included free education, guarantee of the means of life, insurance against its risks.<sup>8</sup>

Bourgeois writes of the social debt:

No man is free as long as he is in debt. He becomes free the moment he pays off that debt. The doctrine of solidarity is just the corrective of the theories of private property and individual liberty.<sup>9</sup>

It is because the doctrine provided a basis for moderate criticism of the laissez-faire theories that it was adopted by Gide. Solidarism

5. T. H. Green, *Lectures on the Principles of Political Obligation*, Par. 7 (*Works*, II, 334-553); cited in F. W. Coker, *Recent Political Thought*, 422.

6. Cf. T. H. Green, *A Prolegomena to Ethics*, 229-289.

7. This must not be confused with Pesch's solidarism; the two schools developed quite independently.

8. Cf. Gide and Rist, *History of Economic Doctrines*, 599.

9. L. Bourgeois, *Essai d'une philosophie de la solidarité*, (Paris: Alcan, 1902), 45; quoted in Gide and Rist, *op. cit.*, 596.



shows the necessity, on purely utilitarian grounds, of social concern; for the gains of society return with increase to the individual.<sup>10</sup> The whole doctrine has a decidedly individualistic cast: Bourgeois' work was to establish a foundation for placing the social debt within the category of strict commutative (and perhaps distributive) justice; Gide, uninterested in justice, based his solidarism somewhat sentimentally on individual utility.<sup>11</sup>

A deep interest in the question of community was stimulated in the continental jurists by the grave legal problems of state intervention in the spheres so long reserved for individual action. In a reaction to the positivist views of right as a creation of the state—which in turn was the contemporary reaction to the revolutionary natural rights dogmatism—Rudolph Stammler developed his doctrine of "richtige Recht". The science of jurisprudence, he said, was a science of means and ends, its purpose to find whether law is just—i. e., ordered as a means to what is understood to be the end of law. And the end of law is the perfect community.<sup>12</sup> This perfect community is nothing actually existing, but the goal toward which society tends; a community which makes possible perfect individual development. Though law operates through penalties and rewards, its aim is a moral one; ideal human society, "a community of men willing freely."<sup>13</sup>

The most prominent of the French jurists who rejected both positivism and the individual rights philosophy for a social conception of law is Léon Duguit. The highest law in any community, he says, is superior to the state. It is not a static set of principles but it is limited by the fact of social solidarity whose benefits it has to preserve.<sup>14</sup> His followers have gone farther toward the notion of a common good as the principle of law.

We believe, with L. Duguit, that there exists a rule of law anterior and superior to the state,—a rule of law founded on solidarity and on justice. It is from this rule of law that are derived objective law and subjective rights.<sup>15</sup>

So writes one of them. Hauriou takes a more radical position influenced by Aristotelian politics. And we may mention Le Fur, whose doctrines, grounded in scholastic philosophy, have gained

10. Gide and Rist, *op. cit.*, 612.

11. See for a complete discussion of French solidarism, *Ibid.*, 587-614.

12. Cf. R. W. Coker, *op. cit.*, 528.

13. R. Stammler, *The Theory of Justice*, Tr. (New York: Macmillan, 1925), 153. Cf. R. W. Coker, *op. cit.*, 528-530.

14. C. G. Haines, *The Revival of Natural Law Concepts*, 260-268.

15. P. Guillemon, *De la rébellion et de la résistance aux actes illégaux* (Thesis, Bordeaux, 1921), 6; cited in Haines, *op. cit.*, 270.

many adherents in France: who insists that the social life is the only life possible for man and that he must be ordered in respect to it by the law which expresses natural justice.<sup>16</sup>

Very interesting too is Gurvitch's theory of *droit social*. Perceiving that there is a large body of law which does not have its origin in the state and is superior to the state, he was led to the conclusion that the most basic object of positive law is a social right, a "right of the Society," opposed to the rights of the State.<sup>17</sup> He conceives that any social totality has such a right for its members.

The phenomenon is always the same: limitation of the juridical order of the State by the right of non-state totalities, whether these are interior or exterior to the State: integration of the individuals and groups in the totalities irreducible to the sum of their members, without their being subordinated to these totalities and without these being erected into superior and transcendent entities; a right which imposes itself in a positive fashion without being commanded by a will and without the consent of those interested. It is everywhere the idea of the immanent totality, of the communion, symbolized in the pronoun **We**, which is opposed as well to the **me** and **thee**, who are coordinated, as to the **they**, who dominate.<sup>18</sup>

This theory calls attention to the little understood field of right and justice outside the state organization. *Droit social* is the right of an individual just as a member of some community. This notion as applied to the social whole would not differ much from the idea of social justice, which is concerned with the right of the society, the right of the common good, and of individuals only as participating in that good. But Gurvitch seems to conceive of the common good of the whole society somewhat atomistically. The idea of social right is to be understood as

right of integration, right of communion and of collaboration in an anti-hierarchical totality (the "We"), opposed to right of coordination as well as to right of subordination, which alone are known to juridical individualism and "imperialism."<sup>19</sup>

16. Cf. C. G. Haines, *op. cit.*, 297-301.

17. G. Gurvitch, *Le temps présent et l'idée du droit social*, 8. The introduction to this book summarizes the explanation of *droit social* contained in his *L'idée du droit social* (Paris: Sirey, 1931), 95ff., 154ff.

18. G. Gurvitch, *Le temps présent et l'idée du droit social*, 8.

19. *Ibid.*, 7-8.

The organic character of the social whole, which is a whole simply because there is a social life which must be ordered, is obscured by his concern with the subpolitical associations that are inexorably assuming importance and power in modern society. The fact that many of these associations have no need for hierarchial structure in order to attain the partial aspect of social life at which they aim is probably what led him to conclude that hierarchy is contrary to the purpose of any non-state association.

Elliott's attempt to combine Green's doctrine of the common good and other elements with an enlightened political pragmatism is another interesting example of the tendency we are discussing. In **The Pragmatic Revolt in Politics** he set forth his "co-organic" theory of the state. A co-organic group he defines as

an organic arrangement of persons who act as a unit toward a common end or ends, more or less consciously accepted and actively shared by each member. The group has an organic or functional unity without creating through it either a super-organism or a super-self.<sup>20</sup>

In an article in the **Review of Politics** in 1940 he tells us:

I am still left concerned to find the moral basis for free constitutional agreement within nations as a pre-condition of going beyond nationalism in much the old terms: an Aristotelian balance that retains on the one hand the ultimacy of moral personality and free individual choice (with the state as its guarantor) of **all** group loyalties. This I have called the shared purpose of the co-element of human associations. On the other hand, the balance must allow for that necessity which I called "organic," of the total environmental and institutional context.<sup>21</sup>

This view in fact bears a considerable resemblance to the Aristotelian concept of the state, which is primarily regarded as directed toward an end common to its members, and as having a determinate nature on account of that end and the social nature of man. But for Elliott it is a state which will find its justification in preserving individual rights. The duties of the citizen seem to consist in cooperation and loyalty.

If political theory has advanced to a limited comprehension of the nature of the common good and the social obligations of the

20. W. Y. Elliott, **The Pragmatic Revolt in Politics**, 377.

21. W. Y. Elliott, "The Pragmatic Revolt in Politics," **Review of Politics**, 2 (1940), 1.

members of society, political practice has progressed considerably beyond the doctrinaire limitations of economic liberalism and utilitarianism. The speeches of Lloyd George in the House of Commons reveal the change in sentiment that was occurring in England during the remarkable rise of the Labor Party. In 1912, during the debate on the Industrial Agreements Bill, he remarked:

I do not suppose anyone in the House will accept the view . . . that it is the business of the Government to stand aside and let the parties fight it out. That has been abandoned long ago.<sup>22</sup>

It had been abandoned. The passage of the National Insurance Act of the year before was a kind of approbation of Lloyd George's statement that

Our object, our goal ought to be enough to maintain efficiency for every man, woman and child. The individual demands it, the State needs it, humanity cries for it, religion insists upon it.<sup>23</sup>

The extension of social legislation in all countries mitigated the oppressions of the now mature capitalist economy.<sup>24</sup> The period in which the term social justice became popular in the United States was the period of trust-busting and muckraking reformism.<sup>25</sup>

Still it must be said that political changes represented as much the result of organized class pressure as of legislative common sense, and the latter more than the realization of political principles of social justice. The liberal ethics was in the process of breaking down, but it did not break down all at once. A society never becomes aware of the corruption of its morals until that corruption has led to political catastrophe. Few enough voices were raised in support of Leo's condemnation not of private ownership and industrial production, but of the capitalistic spirit which seeks to remove economic institutions from the control of human and natural law. Outside the Catholic Church only Utopian solutions, chiefly of the institutional character which Babbitt decried, and superficial mechanical changes were the object of the simple faith of social reformers. Through more realistic agitation the class

22. *Parliamentary Debates*, House of Commons, 5 S., 39 (1912), 236; cited in C. W. Pipkin, *Social Politics and Modern Democracies*, I, 149-150.

23. D. Lloyd George, *The People's Insurance*, (2 ed. 1911), 192; cited in C. W. Pipkin, *op. cit.*, I, 240.

24. *Ibid.*, II, Ch. 12.

25. Cf. H. U. Faulkner, *The Quest for Social Justice*, 1898-1914, Ch. 5.

struggle was admitted into the code of social morality, as a means of raising the guerilla warfare of "free competition" to a higher level of organization on which the sides would be more evenly matched with more hope for a just outcome. But in this way social disintegration was seriously aggravated by the very forces which were most instrumental in bringing about the reforms genuinely demanded by social justice. The advice of the Church was chiefly unheeded.

Furthermore many Catholic writers, surrendering to the influence described in Chapter II, offered social solutions as mechanical and unreal as those of the Utopian socialists. In seeking to adapt guild organization to the economic and political conditions of modern society they ignored the most serious problems of contemporary social life: economic efficiency and political unity. Artificial guild organizations would destroy the entire life of our productive methods. The system of vocation representation proposed by many has been the tool of fascist governments, and in parliamentary democracy could only be the source of political disruption, by forcing on to the legislative level the economic divisions which at the worst in functioning democracy can be adjusted in the unofficial process of lobby and pressure politics.<sup>26</sup>

The Catholic message of social justice is written in sharp relief against this background of individualist thought in all its forms—romantic, rationalistic, humanitarian, totalitarian. It is the key to the reintegration of social life that must be inspired by Christian faith and charity and supported by grace. But it is a key which even this pagan society can turn if it is shown how. The realization of the idea of social justice is the unity of social peace.

### C. SOCIAL JUSTICE: THE VALUE OF THE THING

The life of society, the cause of its unity, is the life of reason. The life of reason is an ordering of all tendencies toward an intellectual end. All the members of an individual man share in his life and are made one by submitting to his rational direction; all the members of a state share in the social life only by submitting themselves to the rule of reason in society—that is, by directing their actions toward the common good. For while in the animal organism the parts are directed toward the good of the whole by a natural necessity, and in the human organism by the despotic command of the rational appetite, in the moral organism which is

26. Cf. Dr. F. A. Hermens, "The Corporative Idea and the Crisis of Democracy," *Central-Blatt and Social Justice*, 31 (1939), 372-375, for a thorough analysis of this point.



society they can be unified only by voluntarily submitting to the guidance of law. I am using law in the broad sense which St. Thomas defined, to mean a reasonable ordination to the common good; proceeding in part from the state, in part from nature, wholly from God. Healthy social life requires that men habitually guide themselves by the principles that direct them toward the common good. It requires that they habitually render to society not a few virtuous actions but the whole of virtuous life. The natural habit of doing this is the virtue of social justice.

How is it to be revealed in practice? In a democracy every voter, far more every influential person, has to have social justice **principally**, as a ruler. In fact this is largely impracticable, because not every voter has the political prudence required of a ruler. But he can dispose himself by ridding himself of the private vices of greed, cowardice and hatred which hinder the operation of a general virtue. He can try to vote conscientiously without regard to rancour or private interest. And each member of the community can develop social justice **participatively** by obeying the laws, acting justly in private matters, and referring all his social actions to the moral well-being of the society.

These are the things required of a social man; this is the only regimen which will build and preserve social health against disease from within and assault from without. Nothing more need be said to urge the value of social justice. The object to which it is directed is the supreme good of men in the natural order. And it would be of no greater value today than it has always been, if it were not for the unhappy effects of its long disuse. But since Leo XIII uttered his warning, the condition of society has become even more critical, the need of remedy even more acute. Today the threatened collapse of the entire political culture of liberalism has awakened a concern with the spiritual sources of its weakness. It is a time of public penance; the newspaper columnists have covered us with sackcloth and ashes. Much depends on the quality of our sorrow and the kind of resolution it engenders.

A crisis does not always resolve into a turn for the better. The reign of anarchy is coming to an end, and as Plato foretold, it has ushered in an era of tyranny. The present crisis is a War of Succession. The virtues that a man needs to live virtuously under a tyranny are more heroic than moderns have. But it may be that social justice practiced now, under the guidance of prudence, will avert one tyranny and establish a community less prenable to others.

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